

In the Matter Of:

Wilcoxon

v.

Red Clay Consolidated School District

C.A. # 05-524-SLR

Transcript of:

Frank Rumford

May 25, 2006

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF DELAWARE

2 RICHARD WILCOXON : CIVIL ACTION
 3 Plaintiff :
 4 -v- :
 5 RED CLAY CONSOLIDATED :
 6 SCHOOL DISTRICT BOARD OF : NO. 05-524-SLR
 7 EDUCATION, and JANAY :
 8 FREEBERY :
 9 Defendants :
 10 Deposition of FRANK RUMFORD, taken before
 11 Elaine Gallagher Parrish, Registered Professional
 12 Reporter, at 1509 Gilpin Avenue, Wilmington, Delaware on
 13 May 25, 2006, commencing approximately at 1:15 p.m.

10 APPEARANCES:

11 TIMOTHY J. WILSON, ESQ.
 12 Margolis Edelstein
 13 1509 Gilpin Avenue
 14 Wilmington, Delaware 19806
 15 for the Plaintiff,

16 BARRY M. WILLOUGHBY, ESQ.
 17 Young Conaway Stargatt & Taylor, LLP
 18 P.O. Box 391
 19 The Brandywine Building
 20 1000 West Street, 17th Floor
 21 Wilmington, Delaware 19801
 22 for the Defendants.

18 ALSO PRESENT:

19 DEBORAH COLES, Paralegal
 20 RICHARD WILCOXON
 21 JANAY FREEBERY
 22 DIANE DUNMON

23 WILCOX & FETZER
 24 1330 King Street - Wilmington, Delaware 19801
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<p>1 FRANK RUMFORD,</p> <p>2 having been first duly sworn according to law, was</p> <p>3 examined and testified as follows:</p> <p>4 BY MR. WILSON:</p> <p>5 Q. Good afternoon, Mr. Rumford. We met previously,</p> <p>6 but for the record my name is Tim Wilson and I'm</p> <p>7 Mr. Wilcoxon's attorney in his lawsuit against Red Clay</p> <p>8 Consolidated School District and Miss Freebery. I am</p> <p>9 just going to go over a couple instructions prior to</p> <p>10 starting so we know how we're going to proceed here.</p> <p>11 First I am going to be asking you questions pertaining</p> <p>12 to this lawsuit and when you respond please do so</p> <p>13 verbally. That way the Court Reporter can take down</p> <p>14 your responses. Obviously it's difficult for her to</p> <p>15 take down head nods and things of that nature.</p> <p>16 As you know, you have just been sworn in,</p> <p>17 your testimony is under oath, so you must answer</p> <p>18 truthfully just as if you were in court. If you don't</p> <p>19 hear a question or don't understand it, let me know and</p> <p>20 I will ask it again or explain it. Please let me finish</p> <p>21 asking the question before you answer, and I will let</p> <p>22 you finish your answer before I ask another question.</p> <p>23 That way we keep the transcript clear.</p> <p>24 If at any time you come to realize that a</p>	<p>1 Q. How long have you lived there?</p> <p>2 A. Eight years.</p> <p>3 Q. Do you own?</p> <p>4 A. Yes.</p> <p>5 Q. Have you ever been charged with a crime?</p> <p>6 A. I have not.</p> <p>7 Q. Did you serve in the military?</p> <p>8 A. No.</p> <p>9 Q. Have you ever been sued in your individual</p> <p>10 capacity?</p> <p>11 A. No.</p> <p>12 Q. Have you ever sued somebody else?</p> <p>13 A. No.</p> <p>14 Q. Have you ever been treated or had counseling for</p> <p>15 alcohol problems?</p> <p>16 A. No.</p> <p>17 Q. Drug problems?</p> <p>18 A. No.</p> <p>19 Q. You went to college, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Where did you go?</p> <p>22 A. West Chester State College.</p> <p>23 Q. And did you graduate?</p> <p>24 A. I did.</p>
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<p>1 statement you made is incorrect or inaccurate, please</p> <p>2 let me know and you will be permitted to clarify the</p> <p>3 record.</p> <p>4 You can not talk or confer with your</p> <p>5 attorney during the deposition, either in here or during</p> <p>6 breaks.</p> <p>7 If at any time you need a break, just let</p> <p>8 me know and we'll accommodate you.</p> <p>9 Do you understand these instructions?</p> <p>10 A. Yes.</p> <p>11 Q. Are you taking any medications today that would</p> <p>12 impair your ability to give truthful testimony?</p> <p>13 A. I am not.</p> <p>14 Q. Have you ever been deposed before?</p> <p>15 A. Never.</p> <p>16 Q. Where were you born, sir?</p> <p>17 A. Wilmington, Delaware.</p> <p>18 Q. What year?</p> <p>19 A. 1959.</p> <p>20 Q. And the specific date?</p> <p>21 A. August 8th.</p> <p>22 Q. What's your address?</p> <p>23 A. 2743 Tanager Drive, Brookmeade II, Wilmington,</p> <p>24 Delaware.</p>	<p>1 Q. And what year did you graduate?</p> <p>2 A. 1981.</p> <p>3 Q. With what degree?</p> <p>4 A. Bachelor of Science in health and physical</p> <p>5 education.</p> <p>6 Q. Have you done any graduate work?</p> <p>7 A. I have.</p> <p>8 Q. Where at?</p> <p>9 A. Wilmington College.</p> <p>10 Q. Any degree?</p> <p>11 A. Master of Education.</p> <p>12 Q. And what year?</p> <p>13 A. '97.</p> <p>14 Q. Any other degrees?</p> <p>15 A. That's it.</p> <p>16 Q. Okay. Did you graduate with honors with either</p> <p>17 of these degrees?</p> <p>18 A. The Master's I believe is honors.</p> <p>19 Q. Okay. Do you recall what it was or --</p> <p>20 A. I don't.</p> <p>21 Q. Are you presently employed by Red Clay</p> <p>22 Consolidated School District?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay. Just from here on out if I refer to Red</p>

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1 Clay, it means Red Clay Consolidated School District,
 2 okay?
 3 **A. That's fine.**
 4 Q. And what is your job title, sir?
 5 **A. Currently?**
 6 Q. Yes.
 7 **A. Acting assistant principal.**
 8 Q. And what does that mean?
 9 **A. That means I have not been approved by the Board**
 10 **as an assistant principal.**
 11 Q. Okay. How long have you held that position?
 12 **A. I want to say a year and a half. At the**
 13 **conclusion of this school year it will be a year and a**
 14 **half.**
 15 Q. Okay. So you started at the end of 2000 --
 16 **A. 5. No. January, 2005, in that area, October,**
 17 **2005, finished that school year.**
 18 Q. Okay.
 19 **A. And this whole school year.**
 20 Q. And what title did you hold before that?
 21 **A. Before that I was assistant to the principal.**
 22 Q. Okay. And what's the difference between acting
 23 assistant principal and assistant to principal?
 24 **A. Certification. Assistant to does not have**

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1 **A. A whole stack of them.**
 2 Q. Do you have any specific recollection of any
 3 particular ones?
 4 **A. I recall -- are you speaking specifically about**
 5 **a document? There was a stack this tall.**
 6 Q. So you don't have a specific recollection --
 7 **A. No.**
 8 Q. -- about any particular documents?
 9 **A. No, we reviewed quite a few.**
 10 Q. Okay. Did you listen to the tapes that were
 11 made by Mr. Wilcoxon --
 12 **A. I did.**
 13 Q. -- of your meetings? And did you do that when
 14 you met with Mr. Willoughby?
 15 **A. That's correct.**
 16 Q. Did you talk to anybody other than
 17 Mr. Willoughby to prepare for the deposition?
 18 **A. No.**
 19 Q. Have you spoken to anybody in general about this
 20 lawsuit?
 21 **A. My wife.**
 22 Q. Anybody else?
 23 **A. No.**
 24 Q. Miss Freebery?

1 **certification as a principal.**
 2 Q. Okay. And what years did you hold that
 3 position?
 4 **A. I want to say end -- approximately a year prior**
 5 **to that, six months to a year prior to that.**
 6 Q. So during the 2003-2004 school year were you --
 7 did you hold this position?
 8 **A. I believe so, yes.**
 9 Q. Okay. And prior to that?
 10 **A. The position was called student advisor.**
 11 Q. Okay. In total how long have you worked for Red
 12 Clay?
 13 **A. 16 years.**
 14 Q. What did you do to prepare for today's
 15 deposition?
 16 **A. Read the deposition and --**
 17 Q. Mr. Wilcoxon's deposition?
 18 **A. Correct, and met with Mr. Willoughby.**
 19 Q. When did you meet with Mr. Willoughby?
 20 **A. I believe it was Thursday of last week and**
 21 **Tuesday of this week.**
 22 Q. Did you review any documents?
 23 **A. We did.**
 24 Q. Do you recall which ones?

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1 **A. No.**
 2 Q. Miss Basara?
 3 **A. No. At the meetings with Mr. Willoughby, yes.**
 4 Q. And that's all, no other conversations besides
 5 that?
 6 **A. Right.**
 7 Q. Okay. Did Mr. Wilcoxon and Miss Freebery team
 8 teach during the 2002-2003 school year?
 9 **A. That's correct.**
 10 Q. Okay. And did they teach phys ed and health?
 11 **A. That's correct.**
 12 Q. And you team taught for a period of time with
 13 Miss Freebery, correct?
 14 **A. That's correct.**
 15 Q. And when was that?
 16 **A. '96 to 2002, approximately six years, I think.**
 17 Q. Okay. So did Mr. Wilcoxon take over team
 18 teaching with her right after you stopped team teaching?
 19 **A. When I became student advisor.**
 20 Q. When you team taught did you become friends with
 21 Miss Freebery?
 22 **A. Correct.**
 23 Q. Were you friends outside of work?
 24 **A. No.**

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3 (Pages 6 to 9)

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<p>1 Q. Did you ever do anything together outside of 2 work?</p> <p>3 A. Outside -- yes.</p> <p>4 Q. Okay. What types of stuff did you do?</p> <p>5 A. When the -- when we would have in-services a 6 group of teachers would go to lunch.</p> <p>7 Q. Okay. Who would be in that group?</p> <p>8 A. Oh, could be anywhere from ten to 12 teachers.</p> <p>9 Q. Was Miss Basara in that group?</p> <p>10 A. No.</p> <p>11 Q. During the 2002-2003 school year were you aware 12 of any tension between Miss Freebery and Mr. Wilcoxon?</p> <p>13 A. 2002-2003. I don't think that was the -- no.</p> <p>14 Q. Were you aware of any personal problems Miss 15 Freebery was having during that 2002-2003 school year?</p> <p>16 A. Yes.</p> <p>17 Q. And what were they?</p> <p>18 A. Her marriage was breaking up.</p> <p>19 Q. Anything else?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Did that have any impact on her professional 22 duties?</p> <p>23 A. It did not.</p> <p>24 Q. Are you aware of any problems that Miss Freebery</p>	<p>1 2003-2004 school year?</p> <p>2 A. Just that her marriage was broken up.</p> <p>3 Q. Did she speak to you about that during that 4 school year?</p> <p>5 A. I would say yes.</p> <p>6 Q. Did she relay what type of an impact that was 7 having on her life?</p> <p>8 A. I don't -- no.</p> <p>9 Q. Was it making her personal life more difficult?</p> <p>10 A. She didn't tell me that.</p> <p>11 Q. Was it making her professional life more 12 difficult?</p> <p>13 A. It was not.</p> <p>14 Q. She also had just recently had a child at that 15 time, correct?</p> <p>16 A. Right about the same time that her marriage broke up, yes.</p> <p>18 Q. Did she ever relate to you that the birth of 19 this child was making her duties as a teacher -- putting 20 some stress on her duties as a teacher?</p> <p>21 A. She never said those words, no.</p> <p>22 Q. Okay. Well, did she say anything similar to 23 that?</p> <p>24 A. No.</p>
<p style="text-align: center;">Page 11</p> <p>1 was having in her professional life during that school 2 year?</p> <p>3 A. I am not.</p> <p>4 Q. During that school year are you aware of Miss 5 Freebery being disciplined for any reason?</p> <p>6 A. I am not.</p> <p>7 Q. Are you aware of Mr. Wilcoxon being disciplined 8 for any reason during that school year?</p> <p>9 A. 2002-2003?</p> <p>10 Q. Yes.</p> <p>11 A. I am not.</p> <p>12 Q. Okay. We'll move on to the 2003-2004 school 13 year and that's the year you were assistant to the 14 principal?</p> <p>15 A. Correct.</p> <p>16 Q. Correct? And Mr. Wilcoxon and Miss Freebery 17 team taught that year together as well, right?</p> <p>18 A. That's correct.</p> <p>19 Q. And prior to December of that year were you 20 aware of any tension between Miss Freebery and 21 Mr. Wilcoxon?</p> <p>22 A. Prior to December? I would say no.</p> <p>23 Q. Were you aware of any problems that Miss 24 Freebery was having with her personal life during the</p>	<p style="text-align: center;">Page 13</p> <p>1 Q. That being a mother was making being a teacher 2 more difficult?</p> <p>3 A. Did she say that exactly? No.</p> <p>4 Q. Did she infer that?</p> <p>5 A. She did not infer that.</p> <p>6 Q. Did she say anything similar to that?</p> <p>7 A. Not that I'm aware of.</p> <p>8 Q. Okay. Are you aware of any problems that Miss 9 Freebery was having with her professional life during 10 the 2003-2004 school year?</p> <p>11 A. I am not. During -- you're saying during the whole school year?</p> <p>13 Q. Yes.</p> <p>14 A. With her professional life.</p> <p>15 Q. Yes.</p> <p>16 A. Yes.</p> <p>17 Q. Okay. What was that?</p> <p>18 A. At one point in time she shared with me that Mr. Wilcoxon was making inappropriate comments. That was in December, I believe.</p> <p>21 Q. Anything else?</p> <p>22 A. That's it.</p> <p>23 Q. Was it early December, late December?</p> <p>24 A. Mid December.</p>

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1 Q. Was it at about the time that the journal --
2 that you found the journal?
3 **A. Prior.**
4 Q. How much prior?
5 **A. I don't recall.**
6 Q. Did she tell you what he said?
7 **A. No. If I can correct that, I don't recall that**
8 **she did.**
9 Q. Okay. Did she tell you how many inappropriate
10 comments he made?
11 **A. She did not.**
12 Q. Did you ask her what he said?
13 **A. No, I did not.**
14 Q. Where were you when she made these comments?
15 **A. Front lobby of Skyline Middle School, trophy**
16 **case area in front of the office, outside the office.**
17 Q. You're absolutely certain this happened before
18 the journal --
19 **A. Correct.**
20 Q. -- came to light?
21 **A. Absolutely certain.**
22 Q. During that school year was Miss Freebery
23 disciplined for any reason?
24 **A. During the school year? I believe she received**

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1 to do?
2 **A. No.**
3 Q. Okay. Whenever you would call in to let them
4 know you're late, who would you call?
5 **A. The office secretary.**
6 Q. And what happens then? What does the office do?
7 **A. Would relay the message to, if the coverage was**
8 **needed, to an appropriate -- we have a system of**
9 **coverage.**
10 Q. Is there a policy at Skyline Middle School that
11 pertains to visitors at the school?
12 **A. There is.**
13 Q. And what's that?
14 **A. Visitors need to report to the office and state**
15 **their business. They receive a visitor's pass. They**
16 **sign in.**
17 Q. When they state their business does it have to
18 be some sort of legitimate business or can it just be to
19 visit somebody?
20 **A. It could -- well, we have parents come in to**
21 **visit students. We have parents come in to visit**
22 **classrooms. So, yeah, there has to be a legitimate**
23 **business involving the school.**
24 Q. What about boyfriends to visit girlfriends?

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1 **a verbal reprimand.**
2 Q. For what?
3 **A. Some of the allegations that were in the**
4 **journal.**
5 Q. But she was given no disciplinary letter?
6 **A. Not that I'm aware of. Not that I recall.**
7 Q. Do you know if she was observed during that
8 school year as far as lesson analysis?
9 **A. She would have to have been observed.**
10 Q. But to your knowledge, your own personal
11 knowledge, you don't know --
12 **A. No. Well, Red Clay requires observations of**
13 **teachers. So personally, no, but . . .**
14 Q. Prior to December of that year were you aware
15 from any source that Miss Freebery arrived late for her
16 morning duty?
17 **A. I was not.**
18 Q. Is it Red Clay or Skyline Middle School policy
19 that when a teacher arrives late he or she is supposed
20 to report in or sign in or anything like that?
21 **A. If the teacher is going to be late common**
22 **courtesy, professionalism would be to call in, say I'm**
23 **going to be late.**
24 Q. But once you get there there is nothing you have

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1 **A. Not that I'm aware of. I don't think there is a**
2 **policy on that.**
3 Q. And is the person required to sign out when he
4 leaves?
5 **A. That's correct. They return the visitor's pass.**
6 Q. Okay. Is the teacher responsible for that
7 visitor when the visitor is there?
8 **A. I would say yes.**
9 Q. So if the visitor fails to sign in or sign out,
10 is that the teacher's responsibility?
11 **A. Well, in the situation if you're talking about a**
12 **parent coming in to visit a student, usually they**
13 **contact the office, I would say that would be the**
14 **administrator's responsibility to make sure that happens**
15 **and to inform the teacher that a parent is coming in to**
16 **observe their class or watch their child in the class.**
17 **So in that case -- in that instance I would say it's the**
18 **administrator or the person that took the call to make**
19 **certain that the parent signed in.**
20 Q. What about in the case of a personal friend
21 visiting one of the teachers?
22 **A. They should -- they still sign in. Who's**
23 **responsible for them signing in? I would imagine it's**
24 **-- I would say it's the teacher's.**

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1 Q. Do you know who Bruce Hannah is?
 2 A. **I do.**
 3 Q. And who is he?
 4 A. **He is married, I think currently married to Miss Freebery.**
 5 Q. Were they married during the 2003-2004 school year?
 6 A. **2000 -- no. I don't believe so.**
 7 Q. Did they have a relationship at that time?
 8 A. **I --**
 9 Q. Were they friends?
 10 A. **Yeah. Yes.**
 11 Q. Did you see him at the Skyline Middle School during the 2002-2003 school year?
 12 A. **I don't recall.**
 13 Q. What about the 2003-2004 school year?
 14 A. **I don't recall. I thought I saw him sometimes after school, intramurals.**
 15 Q. Were you ever informed by Mr. Wilcoxon that Mr. Hannah was not following the proper sign-in procedures?
 16 A. **I was never informed.**
 17 Q. Okay. You were assigned as Mr. Wilcoxon's mentor, correct?

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1 Q. In the context of team teaching, would it be
 2 improper for one of the teachers to leave class without
 3 telling the other teacher?
 4 A. **It would be improper.**
 5 Q. Were you ever made aware prior to December, 2003
 6 that Miss Freebery left her classes?
 7 A. **I was not.**
 8 Q. If a teacher is going to be out of class for an
 9 extended period of time are they required to get that
 10 leave approved?
 11 A. **That's correct.**
 12 Q. And are you the person that would approve?
 13 A. **I could.**
 14 Q. During the 2003-2004 school year did you ever
 15 approve Miss Freebery leaving class for an extended
 16 period of time?
 17 MR. WILLOUGHBY: What do you mean by
 18 extended?
 19 MR. WILSON: More than half hour.
 20 THE WITNESS: I don't recall.
 21 BY MR. WILSON:
 22 Q. What about during the 2002-2003 school year?
 23 A. **I don't recall. I don't think that year I could**
 24 -- **I don't think I -- I think that would be -- would**

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1 A. **I don't think I was assigned. I think I chose**
 2 **to be.**
 3 Q. Okay. When did that start?
 4 A. **When he started.**
 5 Q. Does Red Clay or Skyline have a policy on
 6 teachers leaving class while class is in session?
 7 A. **Yes.**
 8 Q. What is that policy?
 9 A. **They need to -- they should not leave class.**
 10 **They should be supervising their students.**
 11 Q. What's the appropriate response if a teacher
 12 does leave class during class hours?
 13 A. **In which there are students present?**
 14 Q. Yes.
 15 A. **They would be reprimanded.**
 16 Q. In what way?
 17 A. **Well, I'm not sure of the procedure. I have**
 18 **never been involved in that sort of situation but I'm**
 19 **sure there would be a reprimand.**
 20 Q. Sir, are you saying there is no set guidelines
 21 as to how discipline is to be carried out at Skyline?
 22 A. **What I'm saying is I'm not -- I'm not aware of**
 23 **what it is. I'm saying there is -- when the safety of**
 24 **students is involved that is a serious breach.**

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1 **have been an -- one of the other administrators. I was**
 2 **in a student advisor role, but, still, if they told me I**
 3 **could pass it along to an administrator if they couldn't**
 4 **be found, but I don't recall that, that she asked me.**
 5 Q. Do you ever keep personal things in your desk,
 6 prescriptions, notes from your wife, any type of
 7 personal effects?
 8 A. **Prescriptions, no. Notes from my wife, no.**
 9 Q. Things that you would consider private?
 10 A. **Yes. Certainly.**
 11 Q. Do you believe that a teacher has some
 12 expectation of privacy in his desk?
 13 MR. WILLOUGHBY: You're talking about
 14 inside, not on top of?
 15 MR. WILSON: Inside.
 16 THE WITNESS: Certainly.
 17 BY MR. WILSON:
 18 Q. What about on top of the desk?
 19 A. **Do they have privacy on top of their desk?**
 20 Q. An expectation of privacy?
 21 A. **Sure.**
 22 Q. And you're aware of the journal that
 23 Mr. Wilcoxon kept on the comings and goings, for lack of
 24 a better term, on Miss Freebery, correct?

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1 **A. I'm aware.**
 2 Q. And you actually found this journal, correct?
 3 **A. I did.**
 4 Q. And where did you find it?
 5 **A. On top of the desk in the phys ed teacher's office.**
 6 Q. Can you tell me how this all came about, how you came to find the journal?
 7 **A. On, I want to say, December 15th Mr. Wilcoxon had called in sick. I was made aware of it late in the morning when classes were about to begin. I don't know who made me aware of it, but immediately went to the emergency -- with the substitute to the emergency plans in the main office. Opened the drawer, pulled out lesson plans that said PE, in fact they had my name on it, I believe. I opened them up and they were out of date. The bell schedule wasn't even correct. There were -- the class lists weren't correct. I searched through the rest of it thinking I had the wrong one. Couldn't find it.**
 8 **Took the substitute down to the PE teacher's office, opened the door, went in looking for plan book. Plan book was not on top of the desk. There was a notepad similar to the one you have in front of**

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1 **you laying upside down on the top of the desk. I took that and I told the substitute here, this will get you started and have students sign in. He took that, went upstairs to cover the class that was coming in.**
 2 Q. Okay. When you gave him the notebook did you read what was in the notebook?
 3 **A. I did not.**
 4 Q. Okay. How would the notebook get him started?
 5 **A. It's a blank pad for students to sign in on. That would tell us who's in the class. It would not tell us who's not in the class. So this teacher was blind in the students that belonged in the class. Only the students that showed up would have signed it.**
 6 Q. Couldn't you have printed a class list from your computer, couldn't you have taken roll that way?
 7 **A. I could have but in time we -- we had to get that class going. A professional teacher would have had appropriate plans for the substitute in case of a last-minute callout.**
 8 Q. So why didn't you print the class list?
 9 **A. Because I -- that wasn't my responsibility to do that. I tried to get that -- I went above and beyond trying to find grade book and bell schedule which weren't available. At that point in time, here, just**

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1 **take this, it will get you started.**
 2 Q. Okay. Did Mr. Wilcoxon tell you that he was leaving a notepad in his mailbox for the substitute to take attendance on?
 3 **A. On which date are we talking? On that date, the 15th?**
 4 Q. Yes.
 5 **A. He did not.**
 6 Q. And during your mentoring with Mr. Wilcoxon you showed him this technique of taking attendance on a notepad, correct?
 7 MR. WILLOUGHBY: He showed Mr. Wilcoxon?
 8 MR. WILSON: Yes.
 9 MR. WILLOUGHBY: And you're saying he told Mr. Wilcoxon that was an appropriate way to take attendance, is that what you're saying?
 10 MR. WILSON: Yes.
 11 MR. WILLOUGHBY: You can answer the question.
 12 THE WITNESS: That is not an appropriate way to take attendance and I never showed him that that was.
 13 BY MR. WILSON:
 14 Q. Do you ever take attendance that way?

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1 **A. Myself personally? No. I was prepared.**
 2 Q. Were you disciplined for taking the notebook off of Mr. Wilcoxon's desk?
 3 **A. I was not.**
 4 Q. Were you counseled for that?
 5 **A. I was not.**
 6 Q. Did you give the notebook to Miss Freebery?
 7 **A. I did not.**
 8 Q. Did you tell her about it?
 9 **A. I told her that I -- what I had done as far as the grade or how to take -- how I had given the substitute a pad to take attendance.**
 10 Q. Do you know how this notebook came into Miss Freebery's possession?
 11 **A. I assume the substitute.**
 12 Q. But you don't know?
 13 **A. I don't know.**
 14 Q. How did you get into Mr. Wilcoxon's office?
 15 **A. I have a key.**
 16 Q. And other than Mr. Wilcoxon's door there is no other means in his office to lock anything up, is there?
 17 **A. There is.**
 18 Q. And how is that?
 19 **A. There is a closet there.**

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7 (Pages 22 to 25)

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1 Q. And you can lock that closet?
 2 **A. I did when I taught there.**
 3 MR. WILLOUGHBY: Do you want a glass of
 4 water or anything?
 5 THE WITNESS: No. I'm good.
 6 BY MR. WILSON:
 7 Q. When did you first discuss the journal with Miss
 8 Freebery?
 9 **A. The 15th of December, that day.**
 10 Q. How much longer was it after you gave the
 11 notebook to the substitute that you discussed this with
 12 her?
 13 **A. I would say an hour later.**
 14 Q. What did she say?
 15 **A. Hour and a half. She told me that he was**
 16 **keeping track of her comings and goings and things that**
 17 **she was doing.**
 18 Q. Was she mad?
 19 **A. She was crying.**
 20 Q. Where did this occur?
 21 **A. She called me and I'm assuming from her office**
 22 **to mine.**
 23 Q. And prior to this date Miss Freebery had never
 24 made, to your knowledge, Miss Freebery had never made

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1 administration and bring this to their attention?
 2 **A. Not that I'm aware of.**
 3 Q. So if she did, in fact, say this, that was
 4 improper as well, correct?
 5 **A. If she said -- I don't know if she said it or**
 6 **not.**
 7 Q. But if she did it would be improper, right?
 8 **A. Would it be improper for her to -- your question**
 9 **is would it be improper for her to say that Mr. Wilcoxon**
 10 **was difficult to work with?**
 11 Q. Yes.
 12 **A. I would say no.**
 13 Q. But it is improper for him to record her comings
 14 and goings?
 15 **A. I would agree.**
 16 Q. Okay. Can you tell me what the difference is?
 17 **A. The difference is that he's secretly keeping**
 18 **track of what she's doing. Bring it to the**
 19 **administration's attention if she's doing something**
 20 **improper. His comment was made, according to him, that**
 21 **I had heard it, and I had not heard it. So I don't know**
 22 **if the comment was made or not.**
 23 Q. But if Miss Freebery is making this comment to
 24 other teachers and not making it to Mr. Wilcoxon or the

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1 any official complaint about the alleged inappropriate
 2 comments, correct?
 3 **A. I have --**
 4 MR. WILLOUGHBY: Repeat the question.
 5 MR. WILSON: Can you read that back?
 6 (Record read.)
 7 MR. WILLOUGHBY: All right.
 8 THE WITNESS: Official, no.
 9 BY MR. WILSON:
 10 Q. Was it improper for Mr. Wilcoxon to keep this
 11 journal?
 12 **A. I think so.**
 13 Q. Why is that?
 14 **A. If there were problems with the staff member it**
 15 **should have been brought to the administration. What**
 16 **Mr. Wilcoxon had said to us is he was doing it to cover**
 17 **his own ass.**
 18 Q. Why would he need to cover his own ass?
 19 **A. I don't know.**
 20 Q. He didn't say?
 21 **A. He did say. He said that he -- that I had heard**
 22 **in comments made by Miss Freebery where he was difficult**
 23 **to work with.**
 24 Q. Okay. And did Miss Freebery ever go to the

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1 administration, couldn't that be viewed as secret
 2 comments?
 3 MR. WILLOUGHBY: Are you saying she's
 4 saying it to a third party and that's a secret comment,
 5 is that what you're saying?
 6 MR. WILSON: Yeah.
 7 MR. WILLOUGHBY: Okay.
 8 THE WITNESS: I don't think it's secret if
 9 she's making it public to a group of teachers.
 10 BY MR. WILSON:
 11 Q. Okay.
 12 **A. I don't know. That's how I feel.**
 13 Q. If Mr. Wilcoxon showed the book to another
 14 teacher then that would be okay then?
 15 **A. It would not.**
 16 Q. I'm having a hard time understanding why -- what
 17 the difference is between one person communicating to
 18 another person that somebody is difficult to work with,
 19 not bringing that issue to the administration's
 20 attention, and when another teacher has a problem with a
 21 teacher just writing it down?
 22 **A. One is hypothetical and one is not, correct?**
 23 Q. I'm asking you to assume that it's true that she
 24 was saying that.

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1 **A. Then it's -- I haven't had this situation, if**
 2 **it's unprofessional then it's unprofessional. I was not**
 3 **made aware of it. You're making a hypothetical as**
 4 **opposed to a reality.**
 5 Q. You said you had heard it.
 6 **A. I said I had not heard it. I had not heard the**
 7 **comment by Mr. Wilcoxon.**
 8 Q. No. Had you heard the comment by Miss Freebery
 9 that Mr. Wilcoxon was difficult to work with?
 10 **A. I did not. I did not hear that comment. That's**
 11 **why Mr. Wilcoxon said he was covering his ass.**
 12 Q. Okay.
 13 **A. Because an administrator had heard it.**
 14 Q. Okay. On December 16th, that would be the day
 15 after you found the journal, correct?
 16 **A. That would be correct.**
 17 Q. Was there a meeting with you, Miss Freebery and
 18 Miss Basara?
 19 **A. I would say there was.**
 20 Q. Okay. Where was that meeting?
 21 **A. In the assistant principal's office of Miss**
 22 **Basara.**
 23 Q. Are you the only people that were there?
 24 **A. In the meeting?**

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1 **both together.**
 2 Q. And that was you and Miss Basara made that
 3 decision?
 4 **A. That's correct.**
 5 Q. And did you bring them together that day?
 6 **A. We did not.**
 7 Q. Are you sure?
 8 **A. I believe it was the 17th.**
 9 Q. All right. So who was at the meeting on the
 10 17th?
 11 **A. Mr. Wilcoxon, Miss Freebery, myself and Miss**
 12 **Basara.**
 13 Q. Was there a union representative there?
 14 **A. There was not.**
 15 Q. Do you know why?
 16 **A. I don't know why.**
 17 Q. When was Mr. Wilcoxon notified of the meeting?
 18 **A. I don't know.**
 19 Q. What was said at the meeting?
 20 **A. We discussed the journal and we discussed**
 21 **inappropriate comments.**
 22 Q. Okay. What did -- tell me about the discussion
 23 about the journal. Did Miss Basara say anything about
 24 the journal?

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1 Q. Yes.
 2 **A. Basara, Freebery and myself.**
 3 Q. And Mr. Wilcoxon?
 4 **A. No, I don't think Mr. Wilcoxon was there on the**
 5 **16th.**
 6 Q. Okay. Can you tell me what happened at that
 7 meeting?
 8 **A. I think we had a discussion on what had**
 9 **happened. There was several meetings over that short**
 10 **period of time.**
 11 Q. Okay. When you say you had a discussion over
 12 what had happened, are you talking about the journal or
 13 are you talking about the alleged inappropriate
 14 comments?
 15 **A. I think both.**
 16 Q. And did you decide on a course of action to
 17 take?
 18 **A. With Miss Freebery in the room?**
 19 Q. Yes.
 20 **A. I don't -- no. I don't think, no, we didn't**
 21 **decide on a course of action at that time.**
 22 Q. If Miss Freebery wasn't in the room did you
 23 decide on a course of action?
 24 **A. I believe we discussed that we would bring them**

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1 **A. I'm sure she did.**
 2 Q. Do you recall what she said?
 3 **A. No, not specifics other than we tried to resolve**
 4 **the situation so that they could work together.**
 5 Q. Okay. In general do you recall what she said?
 6 **A. Well --**
 7 Q. Or is that your answer?
 8 **A. That's my answer.**
 9 Q. Okay. Do you recall what Mr. Wilcoxon said
 10 about the journal?
 11 **A. That he was doing it because he had heard that**
 12 **Miss Freebery had made comments in my presence that he**
 13 **was difficult to work with.**
 14 Q. What did Miss Freebery say about the journal?
 15 **A. She said, what I recall, there were -- there**
 16 **were many inaccuracies in it. It wasn't true.**
 17 Q. Did she admit to being late?
 18 **A. On occasion.**
 19 Q. So she just said there were many inaccuracies?
 20 She didn't say they were all inaccurate, correct?
 21 **A. She didn't use the word all.**
 22 Q. Now, did you say anything about the journal at
 23 this meeting?
 24 **A. I think -- I think what I recall is basically we**

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1 **went over how it came into how I got a hold of it, what**
 2 **led up to it on the 15th.**
 3 Q. Okay. With regard to the inappropriate
 4 comments, do you recall in general what Miss Basara said
 5 about that?
 6 **A. I want to say that if those comments are being**
 7 **made they need to stop.**
 8 Q. Do you recall what Miss Freebery said?
 9 **A. In regard to?**
 10 Q. The inappropriate comments?
 11 **A. She's the one that laid the inappropriate**
 12 **comments out.**
 13 Q. She said at that meeting what the comments were?
 14 **A. Yeah.**
 15 Q. And what were those comments?
 16 **A. I can't remember specifics. Regarding Bruce,**
 17 **her body, I believe. That's all. I -- there were a lot**
 18 **related to those two.**
 19 Q. Did Mr. Wilcoxon deny making the comments?
 20 **A. He did.**
 21 Q. Did anything else happen at this meeting? Was
 22 there a resolution as to how they could continue to work
 23 together?
 24 **A. A resolution, no. But I think we hoped that**

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1 BY MR. WILSON:
 2 Q. Do you know why she wanted to know?
 3 **A. Because Mr. Wilcoxon had said he was advised to**
 4 **keep the journal. Miss Basara asked who advised you.**
 5 Q. Why is that relevant?
 6 **A. I don't know why it's relevant. Somebody is**
 7 **giving him bad information I guess.**
 8 Q. Did Miss Freebery ask Mr. Wilcoxon who advised
 9 him to keep the journal?
 10 **A. On the 16th?**
 11 Q. Yes.
 12 **A. I don't -- I have no idea.**
 13 Q. At any point?
 14 **A. She may have in the 17th meeting.**
 15 Q. Okay. At a meeting like the one that occurred
 16 on the 17th, is it appropriate for one teacher to
 17 question another teacher on issues that you're trying to
 18 resolve?
 19 **A. I have not been in another meeting like that, so**
 20 **-- there was an interchange between the two of them. It**
 21 **wasn't a question. She wasn't -- he wasn't -- he wasn't**
 22 **being grilled or anything like that. They were**
 23 **exchanging.**
 24 Q. Did he ask her questions?

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1 **they or my hope was they walked out with an**
 2 **understanding that we need to move forward and hopefully**
 3 **this will be put behind them.**
 4 Q. And was it put behind them?
 5 **A. It was not.**
 6 Q. Why is that?
 7 **A. It didn't get resolved.**
 8 Q. Can you explain that?
 9 **A. I just feel -- trust. The trust that was there**
 10 **before wasn't there after.**
 11 Q. At that meeting did Miss Basara attempt to get
 12 Mr. Wilcoxon to reveal who told him to keep the diary?
 13 **A. I don't believe it was at that meeting.**
 14 Q. Okay. What meeting do you think that was at?
 15 **A. The day before, the 16th.**
 16 Q. The 16th?
 17 **A. Uh-huh.**
 18 Q. And at that meeting she did attempt to get him
 19 to --
 20 **A. I believe so. Yes.**
 21 Q. Do you know why it was so important to know who
 22 advised him to do that?
 23 MR. WILLOUGHBY: Wait a second. You said
 24 so important. That's a different question.

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1 **A. I don't think he -- I don't think he asked her**
 2 **questions but he spoke to her.**
 3 Q. Did you read the journal?
 4 **A. I would say yes, I did.**
 5 Q. Were there things in there that concerned you?
 6 **A. Yes.**
 7 Q. Was there any investigation into -- into some of
 8 those things that were contained in the journal?
 9 **A. Investigation as far as speaking to the teacher,**
 10 **yes.**
 11 Q. Anything other than speaking to the teacher?
 12 **A. Not that I'm -- not from my standpoint, not that**
 13 **I was involved in.**
 14 Q. In any of these meetings that you were present
 15 at did Miss Basara ever make a statement to Mr. Wilcoxon
 16 regarding the fact that he was not tenured?
 17 **A. It -- a question -- I think she questioned**
 18 **whether he was tenured or not.**
 19 Q. Okay. And why did she ask that question, do you
 20 know?
 21 **A. Because Mr. Wilcoxon thought he was going to be**
 22 **fired because of this or not renewed.**
 23 Q. So what did Mr. Wilcoxon say, do you recall?
 24 **A. Specifically, no. Generally he was asking is**

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1 **this, you know, is this going to affect me as a teacher**
 2 **or my position here or renewal of the con -- something**
 3 **in that vein.**
 4 Q. And her response was, you're not tenured?
 5 **A. She asked that question of him.**
 6 Q. So she asked the question in response to his
 7 question?
 8 **A. Right.**
 9 Q. Okay. Was that the only meeting that you were
 10 in attendance on December 17th?
 11 **A. I think there was another meeting that afternoon**
 12 **with Mr. Wilcoxon, myself and Miss Basara.**
 13 Q. Okay. What happened at that meeting?
 14 **A. Mr. Wilcoxon stated that he was upset about what**
 15 **had happened in the earlier meeting.**
 16 Q. Who called this meeting?
 17 **A. I believe Mr. Wilcoxon.**
 18 Q. Okay. And why was he upset -- did he say why he
 19 was upset over the earlier meeting?
 20 **A. The allegations.**
 21 Q. Okay. Is this when the you're not tenured
 22 question --
 23 **A. No.**
 24 Q. -- came up? That was at the previous meeting?

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1 BY MR. WILSON:
 2 Q. Did he ever tell you that he thought this was
 3 Miss Freebery's way of getting back at him for keeping
 4 the journal?
 5 **A. Not that I recall.**
 6 Q. At one of these meetings did Mr. Wilcoxon state
 7 that Miss Freebery brought up the topic of sex with him?
 8 **A. Can you ask that again?**
 9 Q. At any of these meetings did Mr. Wilcoxon ever
 10 say that Miss Freebery brought up the topic of sex to
 11 him?
 12 **A. He did.**
 13 Q. And do you recall what he said that she had
 14 said?
 15 **A. I don't recall what he said she said, but he**
 16 **used the term she opened the door as though there was a**
 17 **conversation regarding sex or comments and that because**
 18 **she had made those comments it was now okay for him to**
 19 **say what he said.**
 20 Q. Okay. Now, I believe you testified that in one
 21 of these meetings Miss Basara said to Mr. Wilcoxon if
 22 you made these comments you're not to make them any
 23 more, correct?
 24 **A. Correct.**

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1 **A. No, that -- I think that happened on the 16th.**
 2 **I can't remember. I don't think that happened until --**
 3 Q. Fair enough. Fair enough. Okay. Did -- when
 4 Mr. Wilcoxon raised his issues about his concerns did
 5 Miss Basara give him any assurances that nothing was
 6 going to happen?
 7 **A. This is the afternoon -- you're talking about**
 8 **the afternoon meeting?**
 9 Q. Yes.
 10 **A. I believe from what I heard on the tape was she**
 11 **was not trying to, I believe the quote was gunning for**
 12 **him.**
 13 Q. Did at this meeting did Miss Basara ask him who
 14 gave him the journal again?
 15 **A. Who gave him the journal?**
 16 Q. Or who advised him to keep the journal?
 17 **A. I don't think that -- that happened only at one**
 18 **meeting.**
 19 Q. Okay. Did Mr. Wilcoxon ever come to you
 20 personally and deny making the comments?
 21 MR. WILLOUGHBY: Are you saying at any
 22 point?
 23 MR. WILSON: Yes.
 24 THE WITNESS: Not that I recall.

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1 Q. And was a similar direction given to Miss
 2 Freebery when Mr. Wilcoxon accused her of making
 3 comments?
 4 **A. I don't think he accused her and said she made**
 5 **comments other than the open the door.**
 6 Q. Okay. So that --
 7 **A. So --**
 8 Q. Go ahead and finish.
 9 **A. Go ahead.**
 10 Q. So when he said the opened the door comment that
 11 wasn't explored any further?
 12 **A. I don't recall. I don't -- that was his defense**
 13 **to what she had said.**
 14 Q. Okay. On January 22nd, 2004, there was another
 15 meeting with Mr. Wilcoxon?
 16 **A. Excuse me. What was the date again?**
 17 Q. January 22nd, 2004.
 18 **A. Okay.**
 19 Q. Do you recall that meeting?
 20 **A. I do not. Not the date.**
 21 Q. Do you recall a meeting where Mr. Wilcoxon was
 22 given three disciplinary letters?
 23 **A. I do.**
 24 Q. I'll represent to you that the record reflects

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1 that this was on January 22nd, 2004.
 2 Do you know if Mr. Wilcoxon was given
 3 48-hours prior notice of this meeting?
 4 **A. I do not know if he was.**
 5 Q. Did Mr. Wilcoxon have a union representative
 6 with him at that meeting?
 7 **A. He did not, not that I'm -- not that I recall.**
 8 Q. Who was at that meeting?
 9 **A. I want to say Mr. Wilcoxon, myself and Miss**
 10 **Basara.**
 11 Q. Was Mr. Bartoli there, too?
 12 **A. He was at one of the meetings. I don't know if**
 13 **that was one -- if that was where the letters were**
 14 **given.**
 15 Q. Okay. At this meeting one of the letters given
 16 to Mr. Wilcoxon was for inappropriate comments, correct?
 17 **A. At one of the meetings, or at that meeting?**
 18 Q. I'll just show you the letter.
 19 (Rumford Deposition Exhibit No. Rumford-1
 20 was marked for identification.)
 21 BY MR. WILSON:
 22 Q. Okay. You can read that and let me know when
 23 you're done.
 24 **A. I'm finished.**

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1 MR. WILLOUGHBY: I think you're asking
 2 trick questions.
 3 MR. WILSON: You can object to the form of
 4 the question, but you can't say objection, I don't think
 5 that follows because then your witness is going to say I
 6 don't think that follows. That's inappropriate.
 7 MR. WILLOUGHBY: I think it's inappropriate
 8 for you to ask trick questions.
 9 MR. WILSON: It's not a trick question.
 10 MR. WILLOUGHBY: You tried to do that a
 11 couple times in this deposition.
 12 MR. WILSON: It's not a trick question.
 13 MR. WILLOUGHBY: Or in the earlier one.
 14 MR. WILSON: It references December 17th
 15 and he got disciplined from the discussion that happened
 16 on the 17th.
 17 MR. WILLOUGHBY: Now you're making a
 18 representation I don't agree with.
 19 MR. WILSON: That's what I was asking
 20 about.
 21 MR. WILLOUGHBY: If you want to ask that
 22 question, that's a different question.
 23 MR. WILSON: I did ask the question.
 24 MR. WILLOUGHBY: I don't think you asked it

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1 Q. Does this refresh your recollection as to when
 2 the meeting was?
 3 **A. January 20th.**
 4 Q. And then there is some handwriting off to the
 5 right that says 1-22-04, JB, correct?
 6 **A. Correct.**
 7 Q. Would that be indicative that the meeting was
 8 moved from January 20th to the 22nd?
 9 **A. That would be correct.**
 10 Q. Okay. All right. Is this -- is this a letter
 11 that refers to inappropriate comments made by
 12 Mr. Wilcoxon?
 13 **A. It is.**
 14 Q. And it references the December 17th meeting,
 15 correct?
 16 **A. It does.**
 17 Q. And is this a disciplinary letter?
 18 **A. It is.**
 19 Q. Okay. So the meeting on December 17th did lead
 20 to some discipline imposed on Mr. Wilcoxon, correct?
 21 MR. WILLOUGHBY: I object. I don't think
 22 that follows. You can answer.
 23 MR. WILSON: Barry, I think you're coaching
 24 your witness when you say things like that.

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1 that way. My objection stands.
 2 BY MR. WILSON:
 3 Q. Okay. Did the meeting of December 17th result
 4 in discipline of Mr. Wilcoxon?
 5 **A. It did.**
 6 Q. And after this letter was given to Mr. Wilcoxon
 7 did he request union representation?
 8 **A. Not to me. He may have to Miss Basara. I**
 9 **don't --**
 10 Q. Do you recall him requesting union
 11 representation?
 12 **A. I don't.**
 13 Q. Okay. Do you recollect Mr. Wilcoxon getting two
 14 other disciplinary letters at this meeting?
 15 **A. I do.**
 16 Q. Was one of them for substitute plans?
 17 **A. I believe so.**
 18 Q. And was the other one for a violation of school
 19 bus duty?
 20 **A. I believe that's -- it's calling in buses. I**
 21 **don't know if it's called bus duty. Had to do with**
 22 **buses.**
 23 Q. Okay. Do you recall a faculty basketball game
 24 during the 2003-2004 school year?

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1 **A. Yes.**
 2 Q. Okay. And initially you and Mr. Wilcoxon were
 3 supposed to organize the game, correct?
 4 **A. Initially, no.**
 5 Q. Okay.
 6 **A. I was delegating.**
 7 Q. Okay. So you were in charge initially?
 8 **A. SSA was in charge. They brought it to my**
9 attention and I gave it to the -- to Rich and Miss
10 Freebery because as the phys ed teacher before I
11 organized it with Miss Freebery.
 12 Q. All right. So the original team was you, Miss
 13 Freebery and Mr. Wilcoxon?
 14 **A. I delegated it to them, yes.**
 15 Q. Okay. What part of it did you delegate to
 16 Mr. Wilcoxon?
 17 **A. Setting it up, running it, help -- getting it**
18 organized, same with Miss Freebery.
 19 Q. So they were supposed to work together on this?
 20 **A. Together or with in conjunction with the SSA**
21 person who I think at that time was June Perez.
 22 Q. And the initiation of this, did it occur before
 23 the discovery of the journal?
 24 **A. I don't think so. I think it happened -- this**

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1 what he was doing with regard to the basketball game?
 2 **A. I don't recall doing that, no.**
 3 Q. So any -- let me just show you the document.
 4 Mark that as 2.
 5 (Rumford Deposition Exhibit No. Rumford-2
 6 was marked for identification.)
 7 BY MR. WILSON:
 8 Q. Okay. Have you had a chance to read this?
 9 **A. Yeah.**
 10 Q. All right. At the top it says, to all staff
 11 from Janet Basara, Frank Rumford and Janay Freebery;
 12 Mr. Wilcoxon's name is not on there, correct?
 13 **A. Correct.**
 14 Q. And do you know why his name is not on there?
 15 **A. I don't believe he was doing anything to assist.**
 16 Q. So was there ever a decision made to take him
 17 off the team or off the organizational --
 18 **A. I don't think there was a decision made. It was**
19 these people were the ones that were taking lead.
 20 Q. During the 2003-2004 school year did any of your
 21 responsibilities include performing lesson analysis?
 22 **A. Did not.**
 23 Q. That's going to save us some time. Okay. Do
 24 you ever recall a teacher having money stolen from them

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1 **takes place in usually late winter or had in the past.**
 2 Q. When you delegated it to Miss Freebery and
 3 Mr. Wilcoxon did Miss Freebery object to working with
 4 Mr. Wilcoxon on this?
 5 **A. She did not.**
 6 Q. Did Mr. Wilcoxon make the initial calls to Miss
 7 Perez to begin the organization of the --
 8 **A. I don't know. I don't know.**
 9 Q. At some point was Mr. Wilcoxon eliminated from
 10 the team of organizers for the game?
 11 **A. No, but the -- he didn't -- he wasn't proceeding**
12 forward with any of the -- I don't know if he was
13 contacting Miss Perez or not, but it was getting late
14 and it wasn't getting set up.
 15 Q. Okay. So did you stop communicating with
 16 Mr. Wilcoxon on this?
 17 **A. I believe Miss Freebery was getting the work**
18 done.
 19 Q. Okay. So did you stop communicating with
 20 Mr. Wilcoxon on this?
 21 **A. I don't know if I stopped communicating with him**
22 directly but it needed to get done and she was getting
23 it done along with Miss Perez.
 24 Q. Did you ever approach Mr. Wilcoxon and ask him

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1 at school that they were collecting for a school
 2 function or event.
 3 Let me ask you first, do you recall
 4 Mr. Wilcoxon having money stolen from him?
 5 **A. I do.**
 6 Q. Okay. Was that during the 2003-2004 school
 7 year?
 8 **A. I believe it was. 2002-2003?**
 9 Q. 2003-2004?
 10 **A. Correct.**
 11 Q. And do you recall the specifics of that?
 12 **A. It was hoops, a Hoops For Heart, American Heart**
13 Association fundraiser, apparently the money was left in
14 the multi-purpose room unsecured and one or several
15 students had their money taken that had turned it in.
 16 Q. And was Mr. Wilcoxon disciplined for this?
 17 **A. I believe he received a letter reprimand.**
 18 Q. Do you recall another teacher in this timeframe
 19 having money stolen?
 20 **A. I believe the school nurse did.**
 21 Q. Do you recall if she was disciplined?
 22 **A. She was not, not that I'm aware of anyway.**
 23 Q. Okay. Let me take a short break, talk to Rich
 24 and then we should be about done.

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1 (Recess taken.)
 2 BY MR. WILSON:
 3 Q. Everybody ready? All right. I just have real
 4 quick follow-up. With regard to the locked closet in
 5 Mr. Wilcoxon's office, that's not a keyed lock, correct?
 6 A. **It is not a key lock.**
 7 Q. There is just a place to put like a padlock or a
 8 combination lock?
 9 A. **That's correct.**
 10 MR. WILSON: Okay. I have nothing further.
 11 BY MR. WILLOUGHBY:
 12 Q. I have a few questions. Let's start with the
 13 question of locks. In the multi-purpose room where
 14 Mr. Wilcoxon left the money unsecured are there any
 15 locking cabinets or locations in there?
 16 A. **There are two.**
 17 Q. Okay. Tell me about those.
 18 A. **There are two five and a half foot cabinets in**
 19 **there where health test material was stored, one on**
 20 **either -- next to either door that leads into the room.**
 21 Q. And they're locked?
 22 A. **They're a key lock.**
 23 Q. So if Mr. Wilcoxon wanted to he could have
 24 locked the money there?

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1 A. **I do.**
 2 Q. You also talked about having a discussion with
 3 her, I think you said at a trophy case?
 4 A. **Lobby area.**
 5 Q. And that was prior to December 15th?
 6 A. **Yes.**
 7 Q. Can you give us a little more detail on what
 8 Miss Freebery said to you about the comments
 9 Mr. Wilcoxon was making and what you said back?
 10 A. **Miss Freebery said that Mr. Wilcoxon was making**
 11 **inappropriate comments to her and my response to her was**
 12 **you need to tell him to stop.**
 13 Q. Okay. And that was prior to December 15th?
 14 A. **That's correct.**
 15 Q. Did you ever overhear any comments by
 16 Mr. Wilcoxon regarding Miss Freebery being pregnant?
 17 A. **I do not.**
 18 Q. When at the meeting on December 17th there was a
 19 conversation that was a dispute resolution-type
 20 conversation and during that meeting did Miss Freebery
 21 discuss inappropriate remarks that Mr. Wilcoxon made?
 22 A. **She did.**
 23 Q. Do you recall the pregnancy issue coming up
 24 during that conversation?

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1 A. **That's correct.**
 2 Q. Okay. You were asked some questions early on in
 3 the deposition about a teacher leaving the room during
 4 class, and you made comment to the effect that that
 5 wouldn't be a proper procedure to leave the students
 6 unsupervised?
 7 A. **That's correct.**
 8 Q. When you were being asked those questions were
 9 you assuming there was a single teacher in the class?
 10 A. **That's correct.**
 11 Q. What happens when you have a team teaching
 12 situation, are there occasions when one teacher might
 13 leave the room for some reason?
 14 A. **That's correct, and usually they communicate.**
 15 Q. And what about situations like that where there
 16 is a guest speaker, would it be any reason why one
 17 teacher could not leave the room when there is a guest
 18 speaker there?
 19 A. **It would not be a reason why they could not.**
 20 Q. You were asked at one point that during the
 21 2003-2004 school year did Miss Freebery prior to the
 22 December 15th incident make any official complaints of
 23 any inappropriate comments, do you remember that
 24 question?

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1 A. **It did.**
 2 Q. There was testimony earlier about Mr. Wilcoxon
 3 making a comment to Miss Basara and to others about Miss
 4 Freebery being the closest thing to a wife and bitch
 5 that he had. Do you recall that being discussed at any
 6 point?
 7 A. **I do.**
 8 Q. When those remarks were made what did
 9 Mr. Wilcoxon say?
 10 A. **I believe he denied them.**
 11 Q. Did he make any remarks about you said opening
 12 the door at one point?
 13 A. **He did say that.**
 14 MR. WILSON: Objection. Asked and
 15 answered.
 16 BY MR. WILLOUGHBY:
 17 Q. Right. Can you take us through what he said
 18 when those remarks were made and what else he said?
 19 A. **When the initial comments were made by Miss**
 20 **Freebery in that meeting Mr. Wilcoxon replied to Miss**
 21 **Freebery that, and Miss Basara and myself, that she had**
 22 **opened the door with comments made by him to her -- by**
 23 **her to him.**
 24 Q. And did he refer to anything in particular?

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14 (Pages 50 to 53)

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1 **A. He did not.**
 2 Q. Did he say anything else about what his intent
 3 was with respect to the comments he had made?
 4 **A. Intent, no.**
 5 Q. Did he say anything about joking, things like
 6 that?
 7 **A. He did say I was just kidding, yes.**
 8 Q. And you listened to the tape of that meeting,
 9 correct?
 10 **A. I did listen.**
 11 Q. Okay. And was that part of the conversation on
 12 the tape?
 13 **A. The inappropriate comments?**
 14 Q. His response when Miss Freebery mentioned
 15 inappropriate comments?
 16 **A. I did not hear it.**
 17 Q. Did he turn the tape off at that point?
 18 **A. He did.**
 19 Q. Did you listen to any other tapes of
 20 conversations that Mr. Wilcoxon secretly made other than
 21 that one day?
 22 **A. I believe I did.**
 23 Q. Okay. What others did you listen to?
 24 **A. I believe it was the day before.**

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1 Q. When you were teaching did you ever have to
 2 cover for another teacher who was late?
 3 **A. Yes, I did.**
 4 Q. To your knowledge did Miss Freebery ever have to
 5 do that when she taught there?
 6 **A. Certainly.**
 7 Q. Go back to the stolen money issue and you were
 8 asked about the school nurse, do you remember that?
 9 **A. I do.**
 10 Q. Where was the money kept and how was it secured
 11 for the school nurse?
 12 **A. I believe she kept it in that instance in the, I**
 13 **don't know what you call it, in the box where the**
 14 **medication is that's locked.**
 15 Q. So in that case was the money locked up?
 16 **A. It was locked up.**
 17 MR. WILLOUGHBY: Okay. That's all I have.
 18 BY MR. WILSON:
 19 Q. I just have a couple follow-ups. Okay. When
 20 Mr. Willoughby asked you about the team teaching
 21 scenario where a teacher leaves the room, and you said
 22 it's okay if there is communication, correct --
 23 **A. Correct.**
 24 Q. -- between the two teachers. What if there is

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1 Q. Okay. Any others besides that?
 2 **A. Not that I recall.**
 3 Q. You were asked some questions about a teacher
 4 being expected to call in if they're going to be late?
 5 **A. Correct.**
 6 Q. Now what time is the teacher supposed to be at
 7 the school?
 8 **A. At that time I think it was -- it's changed. I**
 9 **believe it was 7:35 they had to be there.**
 10 Q. What time did the students come in?
 11 **A. That's when the students had to come in. So**
 12 **ten, 15 minutes earlier than that they had to be in.**
 13 Q. So if a teacher was going to be a minute or two,
 14 five minutes late but the students wouldn't be there
 15 would they be expected to call in?
 16 **A. No.**
 17 Q. If they were going to be late when students were
 18 arriving, would they be expected to call in?
 19 **A. That's correct.**
 20 Q. And what would you and the administration do if
 21 you got a call like that?
 22 **A. We have a coverage plan where we would assign**
 23 **teachers that don't have duties to cover until that**
 24 **teacher arrives.**

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1 no communication, is that proper?
 2 **A. Well, no. It wouldn't be proper. It wouldn't**
 3 **-- it wouldn't be proper for one teacher just to walk**
 4 **out on the other.**
 5 Q. Okay. And in the scenario with the guest
 6 speaker, you said that it would be okay for one teacher
 7 to leave, would it be okay for that teacher to leave
 8 for, say, the whole class period?
 9 **A. It would be okay if there was communication is**
 10 **what I believe I said.**
 11 Q. Okay. And you stated that you had covered for
 12 teachers that arrived late in the past, correct?
 13 **A. Sure.**
 14 Q. Did you ever cover for Miss Freebery?
 15 **A. I don't believe so.**
 16 Q. When you team taught with Miss Freebery was she
 17 ever late?
 18 **A. Wow, maybe a couple times. But so was I.**
 19 MR. WILSON: All right. I have nothing
 20 further.
 21 MR. WILLOUGHBY: Okay. That's all I have.
 22 We're going to read and sign. Okay. You're done.
 23 (Whereupon the Deposition concluded at
 24 approximately 2:30 p.m.)

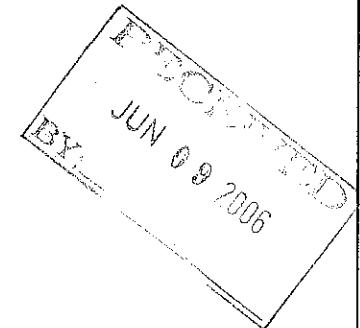
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		Page 58	Page 60
1	INDEX		
2	DEPONENT: FRANK RUMFORD	PAGE	
3	Examination by Mr. Wilson	2	1 State of Delaware))
4	Examination by Mr. Willoughby	50	2 New Castle County)
5	Examination by Mr. Wilson	56	3 CERTIFICATE OF REPORTER
6	EXHIBITS		4 I, Elaine G. Parrish, Registered
7	FRANK RUMFORD DEPOSITION EXHIBITS	MARKED	5 Professional Reporter and Notary Public, do hereby
8	1 1/20/04 - 1/22/04 letter to Rich Wilcoxon From Janet Basara	42	6 certify that there came before me on the 25th day of
9	2 2/26/04 letter to all staff from Janet Basara, Frank Rumford and Janay Freebery	48	7 May, 2006, the deponent herein, FRANK RUMFORD, who was
10			8 duly sworn by me and thereafter examined by counsel for
11			9 the respective parties; that the questions asked of said
12	ERRATA SHEET/DEPONENT'S SIGNATURE	PAGE 59	10 deponent and the answers given were taken down by me in
13	CERTIFICATE OF REPORTER	PAGE 60	11 stenotype notes and thereafter transcribed into
14			12 typewriting under my direction.
15			13 I further certify that the foregoing is a
16			14 true and correct transcript of the testimony given at
17			15 said examination of said witness.
18			16 I further certify that I am not counsel,
19			17 attorney, or relative of either party, or otherwise
20			18 interested in the event of this suit.
21			19
22			20
23			21
24			22
			23
			24

	Page 59
1	REPLACE THIS PAGE
2	WITH THE ERRATA SHEET
3	AFTER IT HAS BEEN
4	COMPLETED AND SIGNED
5	BY THE DEPONENT.
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16 (Pages 58 to 60)



In the Matter Of:

Wilcoxon

v.

Red Clay Consolidated School District

C.A. # 05-524-SLR

Transcript of:

Janet Basara

May 25, 2006

Wilcox & Fetzer, Ltd.
Phone: 302-655-0477
Fax: 302-655-0497
Email: lhertzog@wilfet.com
Internet: www.wilfet.com

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Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF DELAWARE

2 RICHARD WILCOXON : CIVIL ACTION
 3 Plaintiff :
 4 -v- :
 5 RED CLAY CONSOLIDATED :
 6 SCHOOL DISTRICT BOARD OF : NO. 05-524-SLR
 7 EDUCATION, and JANAY :
 8 FREEBERY :
 9 Defendants :
 10 Deposition of JANET BASARA, taken before
 11 Elaine Gallagher Parrish, Registered Professional
 12 Reporter, at 1509 Gilpin Avenue, Wilmington, Delaware on
 13 May 25, 2006, commencing approximately at 9:05 a.m.

10 APPEARANCES:

11 TIMOTHY J. WILSON, ESQ.
 12 Margolis Edelstein
 13 1509 Gilpin Avenue
 14 Wilmington, Delaware 19806
 15 for the Plaintiff,

16 BARRY M. WILLOUGHBY, ESQ.
 17 Young Conaway Stargatt & Taylor, LLP
 18 P.O. Box 391
 19 The Brandywine Building
 20 1000 West Street, 17th Floor
 21 Wilmington, Delaware 19801
 22 for the Defendants.

23 ALSO PRESENT:

24 RICHARD WILCOXON
 25 DIANE DUNMON
 26 JANAY FREEBERY

27 WILCOX & FETZER
 28 1330 King Street - Wilmington, Delaware 19801
 29 (302) 655-0477

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Page 2

1 JANET BASARA,
2 having been first duly sworn according to law, was
3 examined and testified as follows:
4 BY MR. WILSON:
5 Q. Good morning, Miss Basara.
6 A. **Good morning.**
7 Q. Am I pronouncing your name right?
8 A. **Yes.**
9 Q. Basara?
10 A. **Basara.**
11 Q. Okay. We met earlier this morning when you came
12 in, but once again my name is Tim Wilson and I'm
13 Mr. Wilcoxon's attorney in his lawsuit against Red Clay
14 Consolidated School District and Janay Freebery. Just
15 for clarification, if I mention Red Clay it refers to
16 Red Clay Consolidated School District, okay?
17 A. **Uh-huh.**
18 Q. Do you understand that?
19 A. **Yes.**
20 Q. I'd like to go over a couple instructions before
21 we start the deposition just so you know how it's going
22 to proceed. I am going to be asking you questions
23 pertaining to this lawsuit and when you respond you need
24 to do so verbally. The Court Reporter can't take down

1 A. **Yes.**
2 Q. Are you taking any medications today that could
3 impair your ability to testify truthfully?
4 A. **No, but I have a very sore throat and I'm**
5 **sucking on lozenges if that's all right.**
6 Q. That's fine with me. Have you ever been deposed
7 before?
8 A. **Never.**
9 Q. Where were you born?
10 A. **Wilmington, Delaware.**
11 Q. And what's your birth date?
12 A. **1-3-53.**
13 Q. And your address?
14 A. **209 Barberry Drive, Wilmington, Delaware, 19808.**
15 Q. How long have you lived there?
16 A. **Almost 20 years.**
17 Q. Do you own?
18 A. **Yes.**
19 Q. Have you ever been charged with a crime?
20 A. **Never.**
21 Q. Did you serve in the military?
22 A. **No.**
23 Q. Have you ever been sued in your individual
24 capacity?

1 head nods and it's difficult for her to take down
2 uh-huhs and unh-unhs. So let's try to make it as clear
3 as possible.
4 As you know, you have just been sworn in
5 and your testimony is under oath, so you must answer
6 truthfully just as if you were in court. If you don't
7 hear a question or don't understand it, let me know and
8 I will rephrase it or explain it to you.
9 A. **Uh-huh.**
10 Q. Please let me finish asking the question before
11 you answer, and I will let you finish answering before I
12 ask a question so we can have a clear transcript. If at
13 any time you come to realize that a statement you made
14 is incorrect or inaccurate, please let me know and
15 you'll be permitted to clarify the record. You can not
16 talk or confer with your attorney during the deposition
17 either in here or during breaks unless it pertains to a
18 matter of privilege and Mr. Willoughby will certainly
19 chime in if it does.
20 If at any time you need to take a break,
21 for any reason, let me know and then we'll do that,
22 okay?
23 A. **Yes.**
24 Q. Do you understand these instructions?

1 A. **Never.**
2 Q. Have you ever sued someone else?
3 A. **No.**
4 Q. Have you ever been treated for or had counseling
5 for alcohol problems?
6 A. **Never.**
7 Q. Drug problems?
8 A. **Never.**
9 Q. Did you go to college?
10 A. **Yes.**
11 Q. Where did you go?
12 A. **University of Delaware, Wilmington College and**
13 **Widener.**
14 Q. Okay. Did you get a degree from University of
15 Delaware?
16 A. **Yes.**
17 Q. In what?
18 A. **Bachelor of Education.**
19 Q. And what year?
20 A. **Um, '73, '74.**
21 Q. And Wilmington College, did you get a degree?
22 A. **I got certification for administration at**
23 **Wilmington College.**
24 Q. When did that certification occur?

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2 (Pages 2 to 5)

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1 **A. I don't remember exactly.**
 2 Q. Okay. What about Widener?
 3 **A. Master's Degree.**
 4 Q. And was that Widener here in Delaware or in
 5 Pennsylvania?
 6 **A. Widener in -- in Pennsylvania.**
 7 Q. Chester?
 8 **A. Yes. They came here and presented a program but**
 9 **it was -- that's where the teachers were from.**
 10 Q. Did you get a degree from Widener?
 11 **A. Yes.**
 12 Q. And what was that?
 13 **A. Master's Degree.**
 14 Q. Master's in education?
 15 **A. Yes.**
 16 Q. Were any of the degrees you earned earned with
 17 honors?
 18 **A. All of them.**
 19 Q. And what honors did you receive?
 20 **A. Baccalaureate -- I forget what they call that**
 21 **when you get --**
 22 MR. WILLOUGHBY: Cum Laude.
 23 THE WITNESS: Cum Laude, that's it.
 24 BY MR. WILSON:

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1 Q. At one point you were the acting principal,
 2 correct?
 3 **A. Correct.**
 4 Q. And when was that?
 5 **A. 2002-2003 school year. Is that right?**
 6 MR. WILLOUGHBY: I think it was 2003-2004.
 7 THE WITNESS: 2003-2004 school year.
 8 BY MR. WILSON:
 9 Q. Okay. In your role as assistant principal at
 10 Skyline, did you perform functions such as disciplining
 11 employees on behalf of the School Board?
 12 **A. As an assistant principal?**
 13 Q. Yes?
 14 **A. No.**
 15 Q. What about as acting principal?
 16 **A. Yes.**
 17 Q. What did you do to prepare for today's
 18 deposition?
 19 **A. I refreshed my memory by reading over some of my**
 20 **notes that I had taken at the time, knowing that it was**
 21 **two years -- two years ago.**
 22 Q. Your own personal notes?
 23 **A. Yes.**
 24 MR. WILLOUGHBY: I want to be clear, that

1 Q. Congratulations.
 2 **A. Thank you.**
 3 Q. And was that for the Bachelor's of Education?
 4 **A. Yes.**
 5 Q. And for the Master's?
 6 **A. Yes.**
 7 Q. Both Cum Laude?
 8 **A. Yes.**
 9 Q. Are you presently employed by Red Clay?
 10 **A. Yes.**
 11 Q. And what is your job title?
 12 **A. Right now I'm the assistant principal at**
 13 **Brandywine Springs Elementary.**
 14 Q. And how long have you held that position?
 15 **A. A year.**
 16 Q. So are we talking this current school year?
 17 **A. Uh-huh. Yes.**
 18 Q. Okay. And where were you before that?
 19 **A. Skyline Middle School as the assistant**
 20 **principal.**
 21 Q. And how long did you serve in that capacity?
 22 **A. Four years.**
 23 Q. And --
 24 **A. I think four years, yes.**

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Page 9

1 these are notes that you prepared for counsel, if I'm
 2 thinking of the same notes?
 3 THE WITNESS: Yes.
 4 BY MR. WILSON:
 5 Q. Did you review any notes that you didn't prepare
 6 for the lawsuit?
 7 **A. That I did not prepare? I'm not sure what you**
 8 **mean.**
 9 Q. Well, Mr. Willoughby just clarified that the
 10 notes that you reviewed you did in preparation for the
 11 lawsuit.
 12 **A. Back in 2003, the whole time that this was going**
 13 **on I just jotted notes to remind myself what happened.**
 14 Q. Did you do so at any attorney's request?
 15 **A. No, not then.**
 16 Q. Did you do so in anticipation of a lawsuit?
 17 **A. Not really.**
 18 Q. Okay. I don't think that qualifies.
 19 MR. WILLOUGHBY: We may be talking about
 20 two different sets of notes then. That's fine.
 21 BY MR. WILSON:
 22 Q. Have you provided those notes to Mr. Willoughby?
 23 **A. Yes.**
 24 Q. Did you meet with Mr. Willoughby prior to the

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3 (Pages 6 to 9)

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1 deposition?
 2 **A. This deposition?**
 3 Q. Yes.
 4 **A. Yes.**
 5 Q. And when was that?
 6 **A. Yesterday. No. Yesterday, two days ago.**
 7 **Tuesday. Today is Thursday. Tuesday, and one day last**
 8 **week.**
 9 Q. Approximately how long did you meet with him?
 10 **A. A day and a half, total.**
 11 Q. Other than the notes that you spoke of did you
 12 review any other documents?
 13 **A. Yes.**
 14 Q. Do you recall what those documents were?
 15 **A. The documents that Richard presented to you.**
 16 Q. Anything specific that you can recall?
 17 **A. A lot of documents. The letters, in particular.**
 18 Q. The discipline letters?
 19 **A. Yes. The observations, and his performance**
 20 **appraisal.**
 21 Q. Anything else that you recall?
 22 **A. No.**
 23 Q. Okay. Did you review Mr. Wilcoxon's deposition
 24 transcript?

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1 Q. And what subjects did they team teach?
 2 **A. PE and health.**
 3 Q. Can you give me a brief explanation as to how
 4 team teaching works?
 5 **A. Usually they plan together, when teachers team**
 6 **teach they plan together, help each other prepare**
 7 **materials and whatnot, work together sometimes in the**
 8 **same room. In the gym they would -- they could be**
 9 **separated because there was a divider or they could**
 10 **leave the divider open and do a coed, and in health they**
 11 **work together in a multi-purpose room which was our**
 12 **auditorium which was a little smaller than an auditorium**
 13 **but they would put both classes together and teach**
 14 **health.**
 15 Q. Okay. Prior to this school year Miss Freebery
 16 had been on sabbatical, correct?
 17 **A. Yes.**
 18 MR. WILLOUGHBY: I object. I'm not sure
 19 that she was on sabbatical. She was on maternity leave.
 20 MR. WILSON: Well, she just answered yes.
 21 THE WITNESS: Well, maternity leave.
 22 MR. WILLOUGHBY: You got to be clear in the
 23 question. That's why I objected.
 24 THE WITNESS: She was on maternity leave.

Page 11

1 **A. Yes.**
 2 Q. Did you listen to the tapes that Mr. Wilcoxon
 3 recorded of your meetings?
 4 **A. We tried to but they were really unintelligible.**
 5 **And I think we only listened to one, and I understand**
 6 **there were maybe four.**
 7 Q. Did you speak to anybody other than
 8 Mr. Willoughby to prepare for this deposition?
 9 **A. No.**
 10 Q. Did you talk to anybody in general about the
 11 lawsuit?
 12 **A. No.**
 13 Q. You haven't talked to Miss Freebery about the
 14 lawsuit?
 15 **A. Never.**
 16 Q. Mr. Rumford?
 17 **A. No, although he was in the deposition -- or the**
 18 **preparation for the deposition.**
 19 Q. Was Miss Freebery in that preparation?
 20 **A. No.**
 21 Q. Okay. You're aware that Mr. Wilcoxon and Miss
 22 Freebery team taught during the 2002 through 2003 school
 23 year, correct?
 24 **A. Right.**

Page 13

1 She had a baby.
 2 BY MR. WILSON:
 3 Q. Was she out the whole year?
 4 **A. Half a year.**
 5 Q. During the 2002-2003 school year were you aware
 6 of any tension between Miss Freebery and Miss Wilcoxon?
 7 **A. Is that the year this all started?**
 8 MR. WILLOUGHBY: He's referring to the
 9 first year when she came back from maternity leave.
 10 BY MR. WILSON:
 11 Q. The first year they would have team taught
 12 together.
 13 **A. No. There was not a problem that I was aware**
 14 **of.**
 15 Q. How long have you known Miss Freebery?
 16 **A. Since I started working at Skyline.**
 17 Q. When was that?
 18 **A. What -- do I know what year -- I really don't**
 19 **remember what year. Let's see, it would be 2001, I**
 20 **think 01-02 school year, maybe.**
 21 Q. So for about five or six years --
 22 **A. Uh-huh.**
 23 Q. -- is that approximate? Are you a personal
 24 friend of Miss Freebery's?

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		Page 14	Page 16
1	A. No, I am not.		
2	Q. Do you ever socialize with her out of work?		1 year, did Miss Freebery have any issues with her
3	A. I have never.		2 professional life during that school year?
4	Q. Never gone to lunch?		3 A. Not that I was aware of until we saw the
5	A. No, I didn't.		4 documentation.
6	Q. Out for drinks?		5 Q. And what documentation was that?
7	A. No.		6 A. The one that Richard was keeping on her. He had
8	Q. Ever been to her house?		7 never brought that to my attention, so I was not aware
9	A. Only for Christmas parties which she held for		8 that anything had happened.
10	the staff.		9 Q. I'm talking 2002-2003 school year?
11	Q. Parties or party?		10 A. Oh, that's the year before?
12	A. I believe there may have been two. There was a		11 Q. I believe so, yes.
13	baby shower, and the Christmas party that I remember.		12 A. Okay. No, none.
14	Q. Other than those two instances you haven't done		13 Q. During that same school year, 2002-2003, was
15	anything with Miss Freebery outside of work?		14 Mr. Wilcoxon disciplined for any reason?
16	A. No, I have not.		15 A. No.
17	Q. Were you aware of any problems that Miss		16 Q. Was Miss Freebery observed during that school
18	Freebery was having in her personal life during the		17 year, 2002-2003?
19	2002-2003 school year?		18 A. She would have been either by myself or the
20	A. Yes.		19 principal.
21	Q. And what were those?		20 Q. Who was the principal then?
22	A. She had just separated from her husband, was		21 A. Dr. Manolakas.
23	getting a divorce and had just had a baby.		22 Q. Do you recall the results of those observations?
24	Q. Did that have an impact on her professional		23 A. No, I do not.
			24 Q. During that school year were there any problems
		Page 15	Page 17
1	duties?		1 with Mr. Wilcoxon performing his duties?
2	A. No, it did not.		2 A. Do you mean that were in writing or just that
3	Q. In no way?		3 indicated there might be issues?
4	A. Not that I was aware of.		4 Q. Anything that you were aware of?
5	Q. What about during the 2003-2004 school year, are		5 A. He had issues with classroom control. He sent
6	you aware of any problems that Miss Freebery was having		6 students out of class quite a bit to be disciplined. He
7	with her personal life?		7 was working with Frank Rumford and Frank was mentoring
8	A. With her personal life?		8 him trying to help him get control; lesson plans, help
9	Q. Yes.		9 him with lesson plans, things like that.
10	A. Not really. Things were settled down and she		10 Q. So, is it inappropriate to send students out of
11	was doing better as far as I knew. She was dating. She		11 the class if you're having problems with them?
12	was adjusting to being a single mother.		12 A. Not inappropriate. If you're having a
13	Q. Who was she dating?		13 discipline problem you would send them out to a timeout
14	A. Um, Bruce was one and I don't know if there was		14 room. I just remember that there were a lot coming out
15	another.		15 of Mr. Wilcoxon's room.
16	Q. Was that Bruce Hannah?		16 Q. Okay.
17	A. Uh-huh.		17 A. And that's when you're comparing a staff of 40,
18	Q. You say there was another one, too?		18 40 teachers or so, he had a large number.
19	MR. WILLOUGHBY: If you know the answer.		19 Q. Is it possible that that could be an issue of
20	THE WITNESS: I don't know who the other		20 the makeup of the students in his class as opposed to
21	person was. I know there was another gentleman who was		21 Mr. Wilcoxon?
22	dating her at one point.		22 A. As opposed to him?
23	BY MR. WILSON:		23 Q. Yes.
24	Q. Okay. Getting back to the 2002-2003 school		24 A. No, all the teachers had the same students. I

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1 mean other teachers had the same students that he had.	1 stand to reason that he would have to send more students
2 Q. So the classes remained the same as they went	2 out for discipline than the teachers that only had one
3 from subject to subject to subject?	3 student that had a discipline problem?
4 A. No.	4 MR. WILLOUGHBY: Can you repeat that again,
5 Q. So the makeup of the classes were different?	5 make sure I understand it? This is a hypothetical and
6 A. He taught sixth, seventh and eighth graders.	6 you're saying there is five discipline problems?
7 Q. Right.	7 MR. WILSON: Yes.
8 A. And other teachers taught sixth, seventh and	8 MR. WILLOUGHBY: In the whole school or the
9 eighth graders. Yes, the makeup would be different in	9 grade or something?
10 his class and others classes. They all moved.	10 MR. WILSON: In the one grade.
11 Q. So it is possible that it could be a function of	11 MR. WILLOUGHBY: Okay. Go ahead. Tell me
12 the makeup of the class. In other words, it could be	12 it again.
13 possible that he had a larger share of bad apples in his	13 MR. WILSON: Can you read it back?
14 class than did other teachers?	14 (Record read.)
15 A. I don't know how to answer that.	15 THE WITNESS: I think that is just too
16 Q. Is it possible?	16 hypothetical to even answer. It depends on the teacher.
17 A. I want to say that there were other teachers who	17 BY MR. WILSON:
18 taught the same children and didn't have to send as many	18 Q. So in your opinion it doesn't depend on the
19 students out of class.	19 students at all?
20 Q. But you just testified that the makeup wasn't	20 A. No. It depends -- the students can be a problem
21 the same?	21 when they're together. Certain student combinations are
22 A. Correct.	22 not good combinations. What a teacher needs to do is
23 Q. So it is possible that there were more bad kids	23 separate those students out in their class in order to
24 in one class as opposed to another, even though they	24 make it work.
<hr/>	
Page 19	Page 21
1 were the same students in the same grades?	1 Q. Okay. You mention that Mr. Wilcoxon was being
2 A. I don't think the kids are bad kids. The kids	2 mentored by Frank Rumford?
3 need discipline. The kids need direction. They need	3 A. Yes.
4 instruction.	4 Q. Were there other teachers at the school that had
5 Q. Okay. Let me rephrase it then. It is possible	5 mentors?
6 that there are -- were more kids in Mr. Wilcoxon's class	6 A. Yes. Every new teacher had a mentor.
7 that were discipline problems as opposed to other	7 Q. Other than this issue that you identified with
8 classes?	8 Mr. Wilcoxon, were there any other issues with him
9 A. A student would be a discipline problem in any	9 during the 2002-2003 school year?
10 class or could be a discipline problem in any class. So	10 A. There were a few parent phone calls but nothing
11 it's a matter how the teacher handles those discipline	11 that was extraordinary.
12 problems, if they eventually get control of those	12 Q. Was there any forms of discipline imposed on
13 students and understand the student and work with the	13 Mr. Wilcoxon during that year?
14 student. So any student is a potential problem.	14 A. No. What we try to do is work with new
15 Q. Okay. If there is a total of five discipline	15 teachers, help them figure out how to control their
16 problems in the sixth grade?	16 class better, what strategies would work, separate the
17 MR. WILLOUGHBY: Is this a hypothetical	17 two, don't put them on the same team, that's what you
18 question?	18 do. As an administrator it's your job to work with the
19 MR. WILSON: Yes.	19 teacher and help them to get over whatever issues
20 MR. WILLOUGHBY: Okay.	20 they're having to make them a better teacher, and new
21 BY MR. WILSON:	21 teachers often have problems.
22 Q. In every other class that a teacher teaches	22 Q. Okay. Was Mr. Wilcoxon observed during that
23 there is one of those students in the class and in	23 school year?
24 Mr. Wilcoxon's class there is all of five, wouldn't it	24 A. Yes.

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6 (Pages 18 to 21)

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1 Q. Were any of the observations negative?
 2 A. **Not that I know of. There were a few**
3 recommendations in them. So I don't know exactly what
4 you mean by negative, but they did have recommendations.
 5 Q. Well --
 6 A. A --
 7 Q. I'm sorry. When there is a poor lesson analysis
 8 received by a teacher --
 9 A. Uh-huh --
 10 Q. -- then, correct me if I'm wrong, they're put on
 11 an IIP, correct?
 12 A. **Not necessarily.**
 13 Q. Okay.
 14 A. **That would be after repeated problems that are**
15 not changing I'd do that.
 16 Q. Okay. Was Mr. Wilcoxon put on an IIP that year?
 17 A. **No, he was not. Again, our goal was to work**
18 with Mr. Wilcoxon and not to admonish him but to try to
19 get him to be successful.
 20 Q. With respect to most other teachers, when
 21 they're observed, are there recommendations on their
 22 observation results?
 23 A. **That varies greatly with the teacher.**
 24 Q. So sometimes there is no recommendations?

Page 24

1 Q. Yes. Any type of discipline?
 2 A. **Yes.**
 3 Q. Okay. For what?
 4 A. **The things that Rich -- Richard put on the**
5 documentation, he had not brought that to my attention,
6 but when it was found I spoke to Miss Freebery and at
7 that point Rich had already said, I'm sorry, Richard,
8 had already said that he had exaggerated, he had written
9 it in anger and some of it was not true. So when I
10 spoke to Miss Freebery I said verbal reprimand, whatever
11 was true, whatever part of that is true, it needs to
12 stop.
 13 Q. Okay. Did you do any investigation into what
 14 was true and what was not true?
 15 A. **We talked about that together as a group.**
 16 Q. Okay. With Mr. Wilcoxon?
 17 A. **Yes.**
 18 Q. Okay. When did he tell you that he exaggerated?
 19 A. **In that meeting.**
 20 Q. And what date was that meeting?
 21 A. **There were a lot of meetings on the 15th, 16th**
22 and 17th. We had a lot of in and out, in and out, and
23 we were trying to figure out what exactly happened.
 24 Q. Okay. Was the meeting that he allegedly said

Page 23

1 A. **Yes, sometimes there are no recommendations.**
 2 Q. All right. I'd like to move on to the 2003-2004
 3 school year. Mr. Wilcoxon and Miss Freebery team taught
 4 again during that year, correct?
 5 A. **Yes.**
 6 Q. And this was the year you were acting principal?
 7 A. **In October.**
 8 Q. And did they team teach PE and health again?
 9 A. **Yes.**
 10 Q. Anything else?
 11 A. **No.**
 12 Q. Prior to December of the 2003-2004 school year
 13 were you aware of any tension between Miss Freebery and
 14 Mr. Wilcoxon?
 15 A. **No, I was not.**
 16 Q. Okay. From here on out I just want you to
 17 assume I'm talking about the 2003-2004 school year.
 18 A. **Okay.**
 19 Q. Just so, you know, I don't have to say it a
 20 million times.
 21 A. **Okay.**
 22 Q. During that school year was Miss Freebery
 23 disciplined for any reason?
 24 A. **You mean a verbal, possible verbal reprimand?**

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1 that he exaggerated, was Miss Freebery in that meeting?
 2 A. **I think that was the meeting but I can't tell**
3 you for sure. We tried to listen to the tape but it was
4 too staticky.
 5 Q. Was Miss Freebery observed during that school
 6 year?
 7 A. **I don't think I did an observation on her but**
8 she would have been observed.
 9 Q. Why do you say she would have been?
 10 A. **Every teacher gets observed every year.**
 11 Q. How many times?
 12 A. **Once, twice. Once or twice. A non-tenured**
13 teacher would get observed more than a tenured teacher.
 14 **So I'm assuming, although I don't know for sure, that**
Janay would have had one.
 15 Q. What determines if a tenured teacher gets
 16 observed once or twice?
 17 A. **The policy is that they would get one**
18 observation one year and two observations the second
19 year, and then a performance appraisal. Am I right on
20 that?
 22 MR. WILLOUGHBY: You can't -- you have to
 23 give your best recollection.
 24 THE WITNESS: That's what I think it is.

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1 BY MR. WILSON:
 2 Q. So it's a two-year cycle?
 3 **A. It is. And it's usually one per year because of**
4 time, it just takes a long time to do them.
 5 Q. Are you aware of any negatives or
 6 recommendations on Miss Freebery's observations from
 7 that year?
 8 **A. No, I am not aware of any.**
 9 Q. Were you aware from any source that Miss
 10 Freebery arrived late for morning duty at any time
 11 during that school year?
 12 **A. I was not until Richard made his documentation.**
 13 Q. If she had been late for morning duty would she
 14 have been required to sign in anywhere?
 15 **A. If she was late?**
 16 Q. Yeah.
 17 **A. No, we didn't have a sign-in in the morning for**
18 teachers.
 19 Q. So they could just come in whenever they wanted?
 20 **A. No. They were due in before the students. 7:30**
21 the teachers needed to be in the building; 7:45 the
22 students came in.
 23 Q. How do you keep track of teachers that came in
 24 late?

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1 **A. Yes.**
 2 Q. And if Miss Freebery came in late and didn't
 3 call, then she would have violated the policy, correct?
 4 **A. I don't know if you would call it a policy or a**
5 procedure. It was in order to make sure the students
6 were covered.
 7 Q. It would have been a violation of the rules?
 8 **A. Practice.**
 9 Q. Practice. Okay. Okay. What's the appropriate
 10 form of discipline for an instance such as this that a
 11 teacher doesn't call in but is late?
 12 **A. Typically what I would do is talk with the**
13 person, find out what's going on, work with them, and
14 ask that it not happen again.
 15 Q. What would happen if it did happen again?
 16 **A. If it happened repeatedly there would be a**
17 written reprimand.
 18 Q. Is a written reprimand, is that a letter that's
 19 put in an employee's file?
 20 **A. Yes.**
 21 Q. Is this a form of discipline?
 22 **A. Yes.**
 23 Q. As the acting principal if you get reports like
 24 this, is it your duty to investigate the report?

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1 **A. We assumed they were there for the kids,**
2 otherwise the kids would tell us there is no teachers
3 here and that has happened. We have a very professional
4 staff. It wasn't like we had to keep track of them.
 5 Q. If a teacher does come in late, is -- strike
 6 that.
 7 **A. If a teacher --**
 8 MR. WILLOUGHBY: There is no question
 9 pending. Let him ask you a question.
 10 BY MR. WILSON:
 11 Q. If the teacher is going to be in late, is she
 12 required to call in and report in that she's going to be
 13 late?
 14 **A. Yes.**
 15 Q. Okay.
 16 **A. So we could get coverage for the class.**
 17 Q. And who is the teacher supposed to call?
 18 **A. The secretary.**
 19 Q. Is a record kept of this?
 20 **A. No record kept, no. We just find a person to**
21 cover the class at that time.
 22 Q. Okay. So if a teacher comes in late and doesn't
 23 call in, then they would be in violation of the policy,
 24 correct?

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1 **A. Yes. Except that any teacher could say anything**
2 about another teacher. So that doesn't make it true.
 3 Q. Exactly.
 4 **A. And what I asked Richard to do was to tell me if**
5 it happened again and he never did. So I assumed it
6 never happened again.
 7 Q. How would you, if a teacher does say something
 8 about another teacher, you said it doesn't necessarily
 9 make it true, how do you determine if it's true or not?
 10 **A. Well, we sit down and have a fact-finding, have**
11 a conflict resolution and we have to make some decisions
12 on what did happen, who said what. It's a conference.
 13 Q. So it's just based on your determination of the
 14 credibility of the people there?
 15 **A. No. It's what they said. What they said**
16 happened.
 17 Q. Okay. What if one person says one thing and
 18 another person says another thing?
 19 **A. Are you insinuating the comments from Richard**
20 about --
 21 Q. I'm not insinuating anything.
 22 **A. Well, then that's very hypothetical. It's hard**
23 to say -- to answer that question.
 24 Q. Well, I mean you do have a policy for resolving

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8 (Pages 26 to 29)

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1 Q. During that whole school year?
 2 A. Uh-huh.
 3 Q. Just to bring flowers?
 4 A. If even that, yes, maybe two times, brought her
 5 flowers, left them in the office.
 6 Q. What about 2003-2004 school year?
 7 A. I don't remember if I saw Bruce in the building.
 8 I don't remember if it happened. I don't.
 9 Q. What about the other guy that you can't remember
 10 his name during 2002-2003?
 11 A. Never met him.
 12 Q. How did you know she was dating someone else?
 13 A. I don't know.
 14 Q. Okay. And were you informed by Mr. Wilcoxon
 15 that Mr. Hannah was not following the proper sign-in
 16 procedures?
 17 A. Not until he wrote his document.
 18 Q. And that was in December, correct?
 19 A. Yes, but until that point he had never said a
 20 word.
 21 Q. Were you informed by Mr. Wilcoxon that
 22 Mr. Hannah was frequently at the school to see Miss
 23 Freebery?
 24 A. Not until he -- we found the documents. He

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1 A. Yes.
 2 Q. And what did she say?
 3 A. I talked to her about the whole set of
 4 documentations. At that point Richard had already said
 5 he exaggerated and some of it wasn't true, and that he
 6 wrote it in anger. And so I said to her anything that
 7 is on here needs to stop, if any of this is happening it
 8 needs to stop. And I said the same thing to Richard,
 9 that he needed to let me know if it continued and he
 10 never told me that it did. He never brought it back to
 11 my attention. I had to assume that it stopped.
 12 Q. So, if you have a conversation with a teacher
 13 and it's been reported they're doing something wrong,
 14 and you say don't do it again, they don't do it again,
 15 then nothing further happens, correct?
 16 A. Correct.
 17 Q. Okay. Did you ever see Mr. Hannah eating
 18 breakfast at school?
 19 A. No.
 20 Q. With Miss Freebery?
 21 A. No.
 22 Q. Does Skyline or Red Clay have a policy on
 23 teachers leaving their class while class is in session?
 24 A. Teachers would not leave a class unsupervised.

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1 never said a word.
 2 Q. So you testified you only saw him there two or
 3 three times?
 4 A. Uh-huh.
 5 MR. WILLOUGHBY: That was in 2002-2003.
 6 She said she wasn't sure about 2003-2004.
 7 BY MR. WILSON:
 8 Q. Okay. Getting back to 2003-2004, how many times
 9 did you see him?
 10 A. I don't know.
 11 Q. Five?
 12 A. No. I don't know if I even saw him once.
 13 Q. Okay. So if it was true that he was there
 14 frequently and you never saw him, that would probably
 15 mean he wasn't signing in, correct?
 16 A. No, it would mean I'm busy. I don't sit in the
 17 office and watch who is coming and going. I'm
 18 disciplining students. I'm in classrooms doing
 19 observations. I'm in the cafeteria. I'm in assemblies
 20 working with teachers, meeting with parents. So, no, I
 21 don't sit and watch who comes and goes.
 22 Q. Did you speak to Miss Freebery about
 23 Mr. Wilcoxon's allegations about Mr. Hannah eating
 24 breakfast there?

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1 Q. So does that mean if you have to leave to go to
 2 the restroom or something you have to get a teacher to
 3 come cover for you?
 4 A. Yes.
 5 Q. In the context of team teaching, would it be
 6 improper for a teacher to leave a class without telling
 7 the other teacher that she was leaving?
 8 A. I guess that would be between the two teachers
 9 and what they normally worked out.
 10 Q. Were you ever made aware that Miss Freebery left
 11 her classes?
 12 A. No, not until the documentation. It was never
 13 mentioned before.
 14 Q. If a teacher is going to leave their class for
 15 an extended period of time, are they required to get
 16 that leave approved?
 17 A. Yes.
 18 Q. And who does the approval?
 19 A. Myself, principal or assistant principal.
 20 Q. During the 2002-2003 school year did Miss
 21 Freebery ever have an extended leave approved?
 22 A. I don't know which year it was but I know one
 23 year one time she asked to go watch her daughter in a
 24 swimming session.

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1 these things, correct?

2 **A. Conflict resolution.**

3 Q. So I'm saying if you have one person saying one

4 thing and another person saying another thing how do you

5 resolve that conflict?

6 MR. WILLOUGHBY: You're concluding in your

7 hypothetical she has no outside information herself,

8 like she's heard comments --

9 MR. WILSON: Well, I'm trying to find out

10 does she base it on outside information.

11 MR. WILLOUGHBY: I think that's what her

12 problem is. I think you're giving her a hypothetical

13 that just says it's only he says she says, versus the

14 fact that she has confirmation confirming information

15 from the outside.

16 MR. WILSON: But she can tell me that.

17 MR. WILLOUGHBY: Well, to me the question

18 is just said he said, she said.

19 MR. WILSON: Right. And I said how do you

20 resolve that.

21 MR. WILLOUGHBY: I want to make sure your

22 question was broad enough to include outside information

23 she had.

24 THE WITNESS: I would look for

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1 of discipline?

2 MR. WILLOUGHBY: Are you saying the teacher

3 because the visitor didn't sign?

4 MR. WILSON: The teacher.

5 MR. WILLOUGHBY: Okay. You can answer

6 that.

7 THE WITNESS: No, not that I have ever had

8 to do before.

9 BY MR. WILSON:

10 Q. What would happen if a visitor didn't sign in?

11 **A. Well, I would ask them to sign in. If I knew**

12 **there was a visitor in the building I would go get the**

13 **visitor and bring them down to sign in.**

14 Q. Would you talk to the teacher that the visitor

15 was visiting and inform them that they need to tell

16 their visitors to sign in?

17 **A. Again, that's pretty hypothetical. I mean there**

18 **could be people whose husbands come in to see them,**

19 **whose children come in to see them during the day.**

20 Q. They don't have to sign in?

21 **A. Well, they would sign in. That would be the**

22 **normal procedure but I can't say that that's never**

23 **happened that somebody didn't come in at 3 o'clock to**

24 **see a teacher.**

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1 confirmation. I would investigate in some way. I would

2 try to figure out what things I can figure out and what

3 I will not be able to figure out. If things were said

4 in private then I might not be able to figure that out.

5 If in this case with coming in to the gym a minute or

6 two late, that would be coming in a side door that I

7 wouldn't have seen her come in a front door to see, her

8 gym locker room was down below.

9 BY MR. WILSON:

10 Q. Earlier you mentioned Miss Freebery's

11 boyfriends, in particular Bruce Hannah?

12 **A. Uh-huh.**

13 Q. Was there a policy at Skyline Middle School

14 during either of the two years in question, 2003 -- 2002

15 through 2003 or 2003 through 2004, that pertained to

16 visitors at the school?

17 **A. If there is a visitor at the school they must**

18 **sign in in the morning or sign in when they come in and**

19 **sign out. The sign-in is in the office.**

20 Q. And are records kept of this?

21 **A. Not that are left any more. We leave them there**

22 **for a year and then they go.**

23 Q. If a teacher receives a visitor without proper

24 sign-in and sign-out is the teacher subject to any type

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1 Q. Are teachers typically permitted to eat

2 breakfast during class hours?

3 **A. No.**

4 Q. Why not?

5 **A. It would be unprofessional.**

6 Q. And what would be your response if you got a

7 report that a teacher was doing that?

8 **A. You should be teaching, not eating breakfast.**

9 Q. So you just have a verbal conversation with

10 them?

11 **A. Again, any time I would do any sort of**

12 **disciplining on any issue it would be verbal until it**

13 **became a repeated problem then it would be a written**

14 **reprimand. It didn't ever get to that -- I mean it**

15 **rarely got to that. Most people just stopped, if there**

16 **was a problem.**

17 Q. During the 2002-2003 school year did you ever

18 see Bruce Hannah at school?

19 **A. He brought her flowers a couple times into the**

20 **main office.**

21 Q. So did you see him any other times?

22 **A. No.**

23 Q. So two, maybe three times?

24 **A. Uh-huh.**

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9 (Pages 30 to 33)

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1 Q. And was she team teaching with Mr. Wilcoxon at
2 the time?
3 A. Yes.
4 Q. Would have Mr. Wilcoxon been notified of this?
5 A. By her.
6 Q. So you wouldn't have given any notification?
7 A. No. No. Normally the procedure would be if a
8 teacher is going to leave or is asking permission to
9 leave, they usually come to us with a plan. I'd like to
10 go see this or I'd like to do that or I have a doctor's
11 appointment and so and so is going to cover my class.
12 Q. Okay. Are there records of this?
13 A. I doubt it. Not now.
14 Q. When did Miss Freebery first come to you with
15 her complaints about the alleged inappropriate comments
16 that Mr. Wilcoxon had made to her?
17 A. The day that she saw that he was documenting her
18 and she came up in tears and said she couldn't believe
19 that he would do that because she had put up with so
20 much and didn't want to get him in trouble for all the
21 things that he had been saying to her and here he is
22 documenting her. She was in shock and she was upset and
23 she said he had been making inappropriate comments.
24 Q. What did she say that he had said?

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1 at Miss Freebery's house, and he pointed out the
2 poinsettia was there at her class and said he had given
3 it to her because she was the closest thing he had to a
4 wife and a bitch.
5 Q. And he said this directly to you?
6 A. He said this to a group of people who were in
7 the foyer as he was pointing to the flower in the foyer.
8 I was standing on the steps. Everybody turned around
9 and moved away. It was an uncomfortable comment.
10 Q. Okay. You have mentioned a couple times about
11 the notes that Mr. Wilcoxon kept on Miss Freebery?
12 A. Uh-huh.
13 Q. I am going to refer to that as a journal, okay?
14 A. Okay.
15 Q. And I mean obviously you're aware of the
16 journal, correct?
17 A. Yes. Uh-huh.
18 Q. And at some point you came into possession of
19 the journal, correct?
20 A. Yes.
21 Q. Can you tell me how that happened?
22 A. Janay brought it upstairs the morning that it
23 was found.
24 Q. And upstairs means to your office?

1 A. At that particular meeting or in general those
2 three days?
3 Q. At any time.
4 A. Okay. In general during those three days
5 eventually when she calmed down we asked the question,
6 what has he said. And at that time she stated several
7 comments that he had made, some of them of a sexual
8 nature. She looked really good in those pants, made her
9 feel uncomfortable. She had asked Bruce -- he had said
10 something to Bruce about congratulations, you're a daddy
11 again. She had said -- he had said something to some
12 teachers that she was pregnant because she had to keep
13 going to the bathroom, and all of this was embarrassing
14 to her and she had asked him to stop and he kept it up.
15 Q. When did she ask him to stop?
16 A. Each time. According to her. I wasn't there.
17 Q. Do you know when the comments were made?
18 A. When he made those comments to her?
19 Q. Yes.
20 A. I know one of them. I heard it.
21 Q. Okay. Which one was that?
22 A. He had won a poinsettia at our A-plus drawing
23 for the teachers at a meeting, and that afternoon or the
24 next day we had a faculty party, staff Christmas party

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1 A. Yeah. I'm sorry, yes.
2 Q. And what did she say?
3 A. She couldn't believe that he was doing this, why
4 would he write all these lies, why would he do this?
5 What was his point? She had put up with so much from
6 him and she couldn't believe that he was going to do
7 something like this. Why was he trying to do this? She
8 had absolutely no idea.
9 Q. What did she think he was trying to do?
10 A. We didn't know. Why would you keep a log like
11 that? It didn't make any sense.
12 Q. Did she say how she got the journal?
13 A. Yes.
14 Q. How did she get the journal?
15 A. Mr. Wilcoxon was absent that day, called in
16 sick. He did not have lesson plans and Mr. Rumford went
17 to try to find lesson plans. If a teacher is absent
18 they often leave them on their desk. We have emergency
19 plans in our file. When Mr. Rumford looked for those
20 they were outdated by two years, so they couldn't be
21 used. He went downstairs into Mr. Wilcoxon's office
22 hoping that he had left plans on his desk. He didn't.
23 But there was a notepad there. The substitute was with
24 Mr. Rumford, and he said here, just get kids to sign in

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1 **at this point, we have kids coming in, so sign the kids**
 2 **in and we'll get something going here. So he had to**
 3 **talk to Miss Freebery about getting a lesson and what**
 4 **was going to happen with the kids that day. There were**
 5 **no plans.**
 6 Q. So you thought those were lesson plans?
 7 A. **No, he took the book to get the kids to sign in.**
 8 **Teachers should have a class list so that a substitute**
 9 **would know who is supposed to be in class, otherwise you**
 10 **could have half your class missing and you'd not even**
 11 **know it.**
 12 Q. Okay. Wouldn't Mr. Rumford have access to the
 13 class list on his computer?
 14 A. **Not on -- he might have been able to pull that**
 15 **up eventually but, as I said, I have never seen a**
 16 **teacher not leave plans in some form.**
 17 Q. Okay.
 18 A. **And you need a class list. So it would be**
 19 **assumed it would be on your desk. You have a record**
 20 **book where you keep grades, that could have been on his**
 21 **desk and that would be the quickest way to find out.**
 22 Q. So if --
 23 A. **You're looking for lesson plans, you're looking**
 24 **for bell schedule, you're looking for class list. You**

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1 **there or not.**
 2 Q. How could you have figured that out?
 3 A. **With his record book. We wouldn't be able to**
 4 **figure it out that day unless we were going to go**
 5 **through a lot of trouble to do that.**
 6 Q. Why would it have been Miss Freebery's
 7 responsibility to figure that out?
 8 A. **It wouldn't have been her responsibility**
 9 **necessarily but she was available. She was there**
 10 **and . . .**
 11 Q. But the substitute was available, too, correct?
 12 A. **Uh-huh.**
 13 Q. Couldn't the substitute double-check the list?
 14 A. **I suppose it could happen that way.**
 15 MR. WILLOUGHBY: What list are you
 16 referring to?
 17 THE WITNESS: There wasn't a list at that
 18 point. That was the problem.
 19 BY MR. WILSON:
 20 Q. Then how can you -- maybe I missed something
 21 then. I'm trying to figure out why Miss Freebery got
 22 the notebook.
 23 A. **You'll have to ask Mr. Rumford. All I know is**
 24 **she did have the notebook. I'm not sure what that whole**

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1 **need those all to be together. For somebody to pull**
 2 **those together when the students are coming in takes**
 3 **time. It would be assumed it would be on the desk or in**
 4 **a mailbox for the substitute.**
 5 Q. So I don't understand if he got this information
 6 for the substitute how it ended up with Miss Freebery?
 7 A. **Because she was the other teacher in the room.**
 8 **They were team teaching at that point in the same gym.**
 9 Q. If they were team teaching wouldn't Miss
 10 Freebery have lesson plans --
 11 A. **No. She had her list of students, he had his.**
 12 **In the gym they could draw the door. But without a**
 13 **substitute there -- without a lesson plan there then I'm**
 14 **assuming, and you can ask Mr. Rumford, he was looking**
 15 **for some direction on what the kids were working on,**
 16 **what they were doing so they could continue.**
 17 Q. But it wouldn't have been Miss Freebery's
 18 obligation to teach Mr. Wilcoxon's class?
 19 A. **No, it would not. No.**
 20 Q. How did she end up with the notebook?
 21 A. **He took the notebook, had the students sign in,**
 22 **and then told the substitute to give them to Miss**
 23 **Freebery and that way we could figure out if anybody was**
 24 **missing, any students that cut class, everybody was**

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1 **series of -- that sequence was about.**
 2 Q. As a teacher does Mr. Wilcoxon have a right to
 3 keep a journal in his desk?
 4 A. **Does he have a right to? I suppose he does.**
 5 Q. Okay. Does the teacher have certain rights to
 6 privacy in their desks?
 7 MR. WILLOUGHBY: In their desks or on top
 8 of their desks?
 9 BY MR. WILSON:
 10 Q. Either.
 11 A. **The -- we have a set of keys that would open any**
 12 **room and we would need to do that in an emergency and**
 13 **the case that somebody didn't leave lesson plans, in the**
 14 **case that we're looking for a lost item, so the gym has**
 15 **the -- for the gym office which was his, there is a key**
 16 **for the spare -- for the administrators to go in,**
 17 **custodians go in.**
 18 Q. So is your answer no, that a teacher doesn't
 19 have a certain right to privacy to items that they leave
 20 in or on their desk?
 21 MR. WILLOUGHBY: Is that a legal question
 22 you're saying?
 23 MR. WILSON: I'm asking her just from her
 24 perspective as a acting principal.

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12 (Pages 42 to 45)

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1 MR. WILLOUGHBY: You can answer the best
2 you can.
3 THE WITNESS: Say the question again.
4 BY MR. WILSON:
5 Q. Does a teacher have a certain right to privacy
6 in things that he leaves in or on his desk?
7 **A. Every teacher has a locked file cabinet or**
8 **closet where they would keep valuables. I have never**
9 **come across a situation, so it's hard for me to say**
10 **hypothetically, privacy and your desk, you're at school,**
11 **you're at work, you're in Red Clay, that's their**
12 **building, you know that a teacher or custodian -- I'm**
13 **sorry, an administrator or custodian could go in there**
14 **any time. So private. . .**
15 Q. Would you be offended if somebody went in your
16 desk and started looking?
17 MR. WILLOUGHBY: I'll object. You're
18 saying in the desk. This is something on top of the
19 desk.
20 MR. WILSON: Even on top, if somebody went
21 to your desk and starting rifling through your papers
22 and through your books.
23 MR. WILLOUGHBY: You're saying
24 hypothetical, right? You're not saying for some

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1 **private you would want it in a locked space, you would**
2 **want it in your locked desk or your locked closet.**
3 Q. So your answer is no?
4 **A. No.**
5 MR. WILLOUGHBY: It's correct that your
6 answer is no, correct?
7 THE WITNESS: Correct.
8 MR. WILLOUGHBY: Just didn't want the yes
9 and no to get confused on the transcript.
10 BY MR. WILSON:
11 Q. When Miss Freebery gave you the journal did she
12 request that you do something about it?
13 **A. No. She was just crying and in shock and**
14 **disbelief and saying these are lies and why would he do**
15 **this.**
16 Q. Is there a rule or policy against keeping a
17 journal like this?
18 MR. WILLOUGHBY: I object. It's been asked
19 and answered. You can answer again.
20 MR. WILSON: I don't think I did ask that.
21 MR. WILLOUGHBY: I think you did but she
22 can answer again.
23 THE WITNESS: No, not a rule or policy.
24 What I told Mr. Wilcoxon was, or asked him was, why

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1 business reason they went to look for something, you're
2 saying hypothetically they went into her desk and,
3 quote, rifled it, is that what you're asking?
4 MR. WILSON: That's what I'm asking.
5 THE WITNESS: Now there are times when if I
6 had not been in the building and there were meetings, I
7 would send someone in and say look on my desk, it's the
8 yellow folder on the right or whatever, if they're
9 looking for a paper.
10 BY MR. WILSON:
11 Q. But if you didn't instruct them to do that?
12 **A. That is -- that's just -- I can't say. I don't**
13 **have anything private in my desk that I don't want**
14 **somebody to see.**
15 Q. So your answer is no?
16 **A. My answer would be I wouldn't expect to see**
17 **anything that's supposed to be private and kept from**
18 **everybody.**
19 Q. Okay. So can you answer my question?
20 **A. Not really. Say it again. Let me try it again.**
21 Q. Does the teacher have a right to privacy for
22 things that they keep in or on top of their desk?
23 **A. Again, I have to say that every teacher has a**
24 **locked space. I guess if you're keeping something**

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1 didn't you just talk to her? If she was coming in late
2 and that was bothering you why didn't you say something?
3 If she was asking you to do something you didn't want to
4 do why didn't you just say something to her? You saw
5 her every day. Why wouldn't you just speak to her about
6 that? Why would you keep a log? Especially then tell
7 me that the log is fabricated in some way, that it's
8 exaggerated and that some parts aren't even true. What
9 would be the point of that? So this log, that's what
10 I'm saying, that this log didn't make a whole lot of
11 sense.
12 BY MR. WILSON:
13 Q. Okay. But there is no rule against it?
14 **A. No.**
15 Q. All right. And you requested a meeting with
16 Mr. Wilcoxon that day, correct?
17 **A. It would have been the following day, the 16th.**
18 Q. The following day?
19 **A. The following day.**
20 Q. And that was December 16th?
21 **A. Yes. He was absent the 15th and that's what**
22 **started all of that.**
23 Q. Okay.
24 MR. WILSON: I'd like to have this marked.

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1 (Basara Deposition Exhibit No. Basara-1 was	1 Q. Did you instruct your secretary to tell
2 marked for identification.)	2 Mr. Freebery -- or Mr. Wilcoxon that --
3 MR. WILLOUGHBY: I just want to say for the	3 A. When he came in I asked her to say when you --
4 record this is the first time we have seen this note and	4 if you see him come in, let him know I need to talk to
5 the first time that Miss Freebery has had a chance to	5 him. So I guess she took it upon herself to put a note
6 see it. She says it's not her writing.	6 in his box.
7 MR. WILSON: I wasn't going to ask Miss	7 Q. Okay. Did he come to see you that day?
8 Freebery if it was her writing.	8 A. Yes, we did talk on the 16th.
9 MR. WILLOUGHBY: Well, I know, but you made	9 Q. Okay. Who was at that meeting?
10 a representation --	10 A. Mr. Rumford and myself.
11 MR. WILSON: Well, Barry, I think right now	11 Q. Do you want to take a break?
12 you're getting to the point where you're coaching your	12 A. No, I'm fine.
13 witness.	13 MR. WILLOUGHBY: We'll take just about five
14 MR. WILLOUGHBY: I think it's inappropriate	14 minutes.
15 for you to make representations like that.	15 MR. WILSON: Yeah. That's good.
16 MR. WILSON: I made no representations at	16 MR. WILLOUGHBY: We can't discuss the
17 all.	17 testimony.
18 MR. WILLOUGHBY: You did, in your	18 THE WITNESS: Okay.
19 pleadings, and then withhold this document from us.	19 (Recess taken)
20 MR. WILSON: I didn't withhold it. I told	20 BY MR. WILSON:
21 Debbie I would give it to you.	21 Q. Are you ready, Miss Basara?
22 MR. WILLOUGHBY: I think it's	22 A. Yes.
23 inappropriate.	23 MR. WILSON: Are you ready, Barry?
24 MR. WILSON: It was included in our	24 MR. WILLOUGHBY: Yes. Sure. Go ahead.

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1 production but it was illegible.	1 BY MR. WILSON:
2 MR. WILLOUGHBY: All we got, no, it wasn't	2 Q. Okay. We'll get back to the December 16th
3 legible, it was totally black, what we got, but we asked	3 meeting in a second, but I just wanted to go back and
4 for it and we're first seeing it now. Your	4 touch on something that you testified to earlier.
5 representation throughout the case was this was Janay's	5 Can I have this marked as Basara-2?
6 handwriting and it's not.	6 (Basara Deposition Exhibit Basara-2 was
7 MR. WILSON: How do you know it's not?	7 marked for identification.)
8 MR. WILLOUGHBY: I just asked her.	8 BY MR. WILSON:
9 MR. WILSON: Right, and you're coaching	9 Q. Okay. Can you look at that and let me know when
10 your witness.	10 you're done?
11 MR. WILLOUGHBY: I think it's	11 A. All right.
12 inappropriate.	12 Q. Okay. Can you tell me what this is?
13 THE WITNESS: I think it's the secretary's.	13 A. It's a performance appraisal for Richard's first
14 And I believe this happened when Rich was -- Richard,	14 year.
15 I'm sorry, was out the morning of the 16th, he left the	15 Q. Okay. And that is the 2002-2003 school year,
16 building during his first plan, which was when I wanted	16 correct?
17 to speak to him. This looks like one of the secretaries	17 A. Yes.
18 who wrote that. I don't know where she put it, in his	18 Q. Okay. And you testified earlier that he had
19 mailbox, perhaps. I'm not sure where it was found.	19 issues with his management of the classroom?
20 BY MR. WILSON:	20 A. In that particular year?
21 Q. So it's your testimony that this is not Miss	21 Q. Yes.
22 Freebery's writing?	22 A. The things that I was seeing were discipline
23 A. It doesn't look like her writing. It looks like	23 issues where he was sending students out of the class
24 a secretary.	24 referred for discipline, timeout room, writing students

Wilcoxon
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3 and management of classroom, what was Mr. Wilcoxon's --4 **A. Effective.**

5 Q. -- grade?

6 **A. Effective.**

7 Q. It's not needs improvement?

8 **A. Correct.**

9 Q. All right. Back to the December 16th meeting --

10 **A. Uh-huh.**11 Q. -- you said Mr. Rumford was at the meeting; you
12 were at the meeting?13 **A. Uh-huh.**

14 Q. Mr. Wilcoxon was at the meeting?

15 **A. Yes.**

16 Q. Was anybody else?

17 **A. No.**18 Q. There was no union representative at the
19 meeting?20 **A. No.**21 Q. How much notice of the meeting was Mr. Wilcoxon
22 given?23 **A. I don't know.**

24 Q. Was it that day?

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1 **A. Because we talk to teachers all day long. We**2 **have meetings with teachers and parents and students all**
3 **day long.**

4 Q. And what did you discuss at the meeting?

5 **A. The documentation, and in that particular**
6 **meeting I think Michael was to just figure out what this**
7 **was, why he was keeping it, what were the problems that**
8 **he now was having with Miss Freebery, where this all**
9 **came from, totally out of the blue, shock to us. We**
10 **didn't know that this was a problem. He had never**
11 **mentioned it, never.**

12 Q. What did he say the problems were?

13 **A. He said that he had overheard her talking about**
14 **him, that she had said that he was difficult to work**
15 **with, and that he -- he got advice from somebody to**
16 **document everything that he could, just to cover his**
17 **ass. Those were his words.**

18 Q. And that's why he started keeping the journal?

19 **A. Yes.**20 Q. Did you ask him who told him to start keeping
21 the journal?22 **A. Yes. Along with a whole lot of other questions**
23 **about why he kept the journal; why did he feel he had to**
24 **cover himself; who would recommend to document rather**

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1 **A. Yes. Well, it would have been the day before,**
2 **somebody would have -- Mr. Rumford had said to him we'll**
3 **talk about this tomorrow. We have to talk about this**
4 **tomorrow.**5 Q. I thought you testified Mr. Wilcoxon wasn't at
6 school?7 **A. He wasn't. It was in an e-mail or a phone call.**
8 **I think Mr. Rumford called him to tell him that the**
9 **documentation had been found.**

10 Q. Okay.

11 **A. And that we'll need to talk about it.**12 MR. WILLOUGHBY: I want to be clear, which
13 meeting are we talking about now?

14 MR. WILSON: December 16th.

15 MR. WILLOUGHBY: December 16th?

16 MR. WILSON: Yes.

17 THE WITNESS: And then he was not there
18 during his first planning period which would have been
19 the time that we would have expected to be able to talk
20 to him.

21 BY MR. WILSON:

22 Q. Was the notice of the meeting in writing?

23 **A. No, but typically it isn't in writing.**

24 Q. Why is that?

1 **than just speak to her.**2 Q. Okay. Why was it important that you find out
3 who?4 **A. It wasn't important.**5 Q. Okay. You said why he kept the journal, what
6 did he answer when you asked him that?7 MR. WILLOUGHBY: Objection. Asked and
8 answered.

9 BY MR. WILSON:

10 Q. You can answer.

11 MR. WILLOUGHBY: You can answer again, if
12 you want but --13 THE WITNESS: Okay. Say the question
14 again, please.

15 BY MR. WILSON:

16 Q. You said that you asked him why he kept the
17 journal?18 **A. Uh-huh. And he said he had overheard -- someone**
19 **had told him that he was difficult -- that he was -- I'm**
20 **sorry. Someone had told him that they heard Janay say**
21 **that he was difficult to work with, and he talked to a**
22 **group of friends and someone advised him to cover his**
23 **ass.**

24 Q. Had you read the journal prior to this meeting?

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15 (Pages 54 to 57)

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1 MR. WILLOUGHBY: Just to be clear, this is	1 that, especially after Mr. Wilcoxon said that it was
2 December 16th?	2 fabricated and it was exaggerated.
3 MR. WILSON: December 16th.	3 Q. He said everything in the journal was
4 THE WITNESS: Then I would have seen it on	4 fabricated?
5 the 15th.	5 A. He agreed that there were exaggerations, he
6 BY MR. WILSON:	6 wrote it in anger, and that some of it was not even
7 Q. And you read the allegations in the journal?	7 true.
8 A. Yes.	8 Q. Did you ask him specifically --
9 Q. And had you met with Miss Freebery prior to this	9 A. Yes.
10 meeting?	10 Q. -- the things that weren't true?
11 A. Yes.	11 A. Yes.
12 Q. Was Mr. Rumford at that meeting?	12 Q. What did he say?
13 A. Yes.	13 A. In particular he pointed out that she -- he had
14 Q. What happened at that meeting?	14 said something on the journal about she --
15 A. Well, there were several meetings on the 15th,	15 Q. I'll tell you what. Why don't we look at the
16 16th and 17th. So the meeting that I had with Janay was	16 journal and that might help you go through it a little
17 to clarify what had happened, if any of this was true,	17 better.
18 if any of -- what was going on with this, and basically	18 A. Okay.
19 she said no, this was -- this was fabricated. This	19 Q. I apologize. I was here by myself last night so
20 wasn't true. Why was he lying? Why would he do all of	20 I still have your sticker on there.
21 this? She put up with so much. She was trying not to	21 MR. WILLOUGHBY: Why don't you just refer
22 get him into trouble and to deal with it herself, and so	22 to it as Wilcoxon-1?
23 she never said a word about the things that he was	23 MR. WILSON: Off the record.
24 saying to her, so she just couldn't understand it.	24 (Discussion held off the record.)

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1 Q. So she denied everything that was in the	1 (Basara Deposition Exhibit Basara-3 was
2 journal?	2 marked for identification.)
3 A. Uh-huh. And then in the meeting when we had	3 THE WITNESS: This one in particular --
4 Mr. Wilcoxon he agreed, he wrote it in anger, he	4 MR. WILLOUGHBY: Wait. Are you ready now?
5 exaggerated and some of the stuff was not true. Those	5 THE WITNESS: I'm just saying on one in
6 were his words.	6 particular that I was looking for.
7 Q. Did Miss Freebery ever admit to you that she was	7 BY MR. WILSON:
8 often late?	8 Q. Okay.
9 A. No. No.	9 A. He said -- he wrote --
10 Q. Never?	10 MR. WILLOUGHBY: Let's get to the right
11 A. She did not admit that she was often late, no.	11 page. Bates number is 00760?
12 Whether she came in a couple minutes late, she didn't --	12 THE WITNESS: Yes.
13 we didn't get into that, but she was never late when the	13 BY MR. WILSON:
14 kids were there and that was on the paper.	14 Q. And what's the date of the --
15 Q. That's what she said?	15 A. It is the third little bullet down under
16 A. Yes.	16 November 24th continued.
17 Q. Did you do any further investigation into that?	17 Q. Okay.
18 A. Well, how could I?	18 A. Arrived at 6:22 for choice open house. Teachers
19 Q. I don't know. Could you talk to the students	19 were supposed to arrive at 6 p.m. leaving me to set up
20 perhaps? Did you talk to the students?	20 everything. And that in particular Janay said I had set
21 A. No.	21 everything up beforehand and you know it. It was all
22 Q. Why not?	22 ready before I left. You know that. Why would you
23 A. What would I say to a student? Did you see Miss	23 write that? And he said yes, that's true.
24 Freebery come in late? I wouldn't go to a student over	24 Q. Okay. So he fabricated this one?

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16 (Pages 58 to 61)

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1 **A. Uh-huh.**
 2 Q. Any others?
 3 **A. That was the one I remember off the top of my head.**
 4 Q. Okay. Can you go through and read this and tell me the other ones?
 5 **A. As far as lates, he said yes, he was exaggerating.**
 6 Q. Well, how about the very first one, September 8th: Janay was so late to school she missed her first two classes, first planning and half of third class?
 7 **A. Yeah. I asked her about that. She said she didn't remember. I didn't remember that. I mean if she had missed classes we would have had to have a substitute or she would have called in.**
 8 Q. It says the office called a sub in for her?
 9 **A. Okay.**
 10 Q. So did he admit to fabricating this?
 11 **A. I don't know that -- I can't remember which specific ones he did except for that one in particular I did remember, but I can't tell you which ones he said were and were not, but he generally admitted that this was not the whole truth and so then that becomes really hard to say that any of it is true. He said he wrote it**

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1 the stuff in the log.
 2 **THE WITNESS:** That's two questions. He said, she said is on here. He admitted that this had fabrications and exaggerations.
 3 **BY MR. WILSON:**
 4 Q. Okay.
 5 **A. That's it.**
 6 Q. Okay. So you didn't endeavor to find out if any of this was true?
 7 **MR. WILLOUGHBY:** I think it's been asked and answered.
 8 **MR. WILSON:** If she can answer.
 9 **THE WITNESS:** I don't know how many more times I have to say that.
 10 **MR. WILLOUGHBY:** She's been through this.
 11 **THE WITNESS:** He admitted that this was not truthful.
 12 **MR. WILSON:** That nothing in here was true?
 13 He said nothing in here was true?
 14 **THE WITNESS:** He said he exaggerated. He wrote it in anger. So what -- what would you want me to do with that I guess? What do you want me to do with it? He admitted that it wasn't truthful. And I asked him at that point, please tell me if it happens again.

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1 **in anger, and he was upset with her because she had said he was difficult to work with.**
 2 Q. But you didn't endeavor to find out which ones were fabricated and which ones were exaggerated and which ones were true, correct?
 3 **A. Well, we were talking about the whole paper.**
 4 Q. Uh-huh.
 5 **A. The whole log. He admitted - and I think I have said this about four times now - he admitted that there were fabrications in here.**
 6 Q. Right.
 7 **A. That this was exaggerated. So then the whole thing becomes --**
 8 Q. Did you ask him if anything in here was true?
 9 **A. He was -- he was saying that generally what she was doing was coming in late. She said she wasn't. It becomes he said she said. If he had told me this I would have been able to go down and look, if need be, or to talk to her about it, which is what I would have done, or talked to him.**
 10 Q. So this was an instance of he said she said?
 11 **MR. WILLOUGHBY:** Are you talking about the stuff in the log?
 12 **MR. WILSON:** Yeah, during this meeting and

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1 **BY MR. WILSON:**
 2 Q. Why would it be up to him to see if it happens again? Is that --
 3 **A. Would you like me to stand in her doorway and wait for her to come in every morning?**
 4 Q. Was that his job, though?
 5 **A. No, but he was the one taking offense at it. He was the one claiming this all happened.**
 6 Q. Well, if he said the whole thing was a big lie then why did you tell him if it happens again, let me know?
 7 **A. Because if it happened again I would want to know.**
 8 Q. But according to your testimony he said that it never happened in the first place?
 9 **MR. WILLOUGHBY:** That's not what she said. You're twisting her testimony.
 10 **MR. WILSON:** I don't think so.
 11 **THE WITNESS:** Yes, you are. I did not say that --
 12 **BY MR. WILSON:**
 13 Q. Okay. What did you say?
 14 **A. I said that he admitted --**
 15 **MR. WILLOUGHBY:** Wait. Hold it. We have

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1 been over this about ten times. I am going to let you
2 answer one more time and that's it. Go ahead.
3 MR. WILSON: What I'm trying to find out if
4 she thought anything in here was the truth. She said
5 no.
6 MR. WILLOUGHBY: She's already answered
7 that.
8 MR. WILSON: She said no.
9 MR. WILLOUGHBY: She didn't say there was
10 nothing in here that wasn't true.
11 MR. WILSON: Yes, she did. She said no --
12 THE WITNESS: I didn't know what would be
13 true. He said that he exaggerated, that he fabricated
14 and that he wrote it in anger.
15 BY MR. WILSON:
16 Q. And my next questioning to you was why didn't
17 you try to find out what was true in here and then you
18 said because it's all exaggeration and fabrication?
19 MR. WILLOUGHBY: That's not what she said.
20 That's not what she said. She said what do you want me
21 to do, go down and stand by the door and watch.
22 MR. WILSON: No. I asked her if she --
23 MR. WILLOUGHBY: Well, the record says what
24 it says.

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1 start of second class."
2 Would you view that as --
3 A. **Extremely serious, yes. Students would have**
4 **been unsupervised.**
5 Q. And you don't recall if you asked Mr. Wilcoxon
6 about that?
7 A. **No, and I don't know how that would have**
8 **happened without students letting us know that that**
9 **happened. So I had questioned whether there was a group**
10 **of students unsupervised for a whole period.**
11 Q. What about the next one, November 13th, verbally
12 attacked --
13 A. **Jahil Akil.**
14 Q. -- Jahil Akil for an inappropriate question,
15 would you view that as serious?
16 A. **That looked like a big exaggeration, one of the**
17 **exaggerations perhaps. Verbally attacked wasn't really**
18 **her style to attack kids.**
19 Q. Did you ask Mr. Wilcoxon about that?
20 A. **I can't say that I asked him about anything in**
21 **there specifically like that.**
22 Q. How about November 19th, left before our last
23 class started to go to the bathroom, did not return
24 until 2:25. Is that serious?

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1 MR. WILSON: Yes, it will.
2 MR. WILLOUGHBY: Why don't you go back and
3 find it then?
4 (Record read.)
5 BY MR. WILSON:
6 Q. Let me see if I can clarify it. Did you think
7 any of this in here was true?
8 A. **I didn't know. He wrote it.**
9 Q. Okay. Did you ask him if anything in there was
10 true?
11 A. **I don't remember that specific question. On --**
12 **I just don't remember that question.**
13 Q. Would you agree that some of the things that are
14 in here are pretty serious if they are true?
15 A. **Yes.**
16 Q. Do you recall asking Mr. Wilcoxon if any of
17 those things were true, any of the ones that you would
18 have viewed to be serious?
19 A. **I don't remember asking him that specifically.**
20 Q. Which ones would you consider serious? What
21 about on the first page, Bates number C00759, the second
22 bullet point where it says, "mid September, Janay was
23 late and missed her first class. Her girls stayed in
24 the locker room unsupervised. Janay arrived at the

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1 A. **Left before our last class started. That would**
2 **have been serious. That would have been a whole class**
3 **period.**
4 Q. November 24th, not the first bullet point but
5 the second bullet point, Bruce Hannah came in during
6 first class, ate breakfast in front of the kids, yelled
7 at kids while the TV was being hooked up. She was
8 demeaning. Witnessed by Mike Ruth.
9 Is that serious?
10 A. **Yes. If she was eating breakfast during class**
11 **it would be very serious.**
12 Q. Did you talk to Mike Ruth about that?
13 A. **No.**
14 Q. Why not?
15 A. **To tell you the truth I didn't even really**
16 **remember that Mike Ruth was any part of a witness to**
17 **this.**
18 Q. Who is Mike Ruth?
19 A. **A teacher in the school. I'm not sure how Mike**
20 **would know that because he had the same schedule as**
21 **Janay.**
22 Q. On the next page, 11-25 --
23 A. **Can I say again that Mike had the same schedule**
24 **as Janay, so if he was down there and witnessed that he**

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1 **wasn't in his class. That made me wonder if that was**
 2 **even a possibility.**
 3 Q. But you didn't think it was worth even going to
 4 talk to Mike about it?
 5 **A. No, I didn't ask Mike.**
 6 Q. On the next page, November 25th, Bruce brought
 7 breakfast in for her and she ignored class completely,
 8 is that serious?
 9 **A. Yes. If it happened it would be serious.**
 10 Q. On the next page marked C00761, 12-5, Bruce
 11 arrived at 10:05 and stayed the remainder of the day.
 12 Would there be any reason for a teacher's boyfriend --
 13 **A. No.**
 14 Q. -- to stay the whole day?
 15 **A. No.**
 16 Q. So would that be serious?
 17 **A. Yes.**
 18 Q. All right. And so then on December 17th you had
 19 another meeting? We can put this away now.
 20 **A. Well, except that --**
 21 MR. WILLOUGHBY: Go ahead.
 22 THE WITNESS: I made a blanket statement to
 23 Janay, if any of this is true, if any part of this is
 24 true, it needs to stop. It was a verbal reprimand, if

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1 **A. Four of us: Mr. Wilcoxon, Miss Freebery, myself**
 2 **and Mr. Rumford; and the purpose of that meeting was**
 3 **conflict resolution.**
 4 Q. Okay. Did Mr. Wilcoxon have a union
 5 representative of his choice there?
 6 **A. No.**
 7 Q. Was he given 48-hours notice of the meeting?
 8 **A. He doesn't need 48-hours notice.**
 9 Q. Why is that?
 10 **A. Because that's if he's going to a district level**
 11 **meeting, not an in-school meeting.**
 12 Q. Was he given the notice in writing, notice of
 13 the meeting in writing?
 14 **A. I don't remember.**
 15 Q. Do you know how much time he was given, how much
 16 notice he was given before the meeting started?
 17 **A. I don't know.**
 18 Q. What happened at this meeting?
 19 **A. At this meeting my goal was to help the two of**
 20 **them be able to work together, to get past this whole**
 21 **issue, and to make it clear what has been said to each**
 22 **of them about each of them so that they both --**
 23 **everybody was on the same page, and to make it clear**
 24 **that it shouldn't happen again.**

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1 you want to say, that if any of this, even though we
 2 knew from his statements that there were exaggerations
 3 and untruths in here, they had been pointed out and
 4 agreed to, I said to Janay if there is any part of this
 5 it needs to stop.
 6 BY MR. WILSON:
 7 Q. Okay. And if something similar happened then --
 8 **A. I asked Rich.**
 9 Q. -- you would take some disciplinary steps?
 10 **A. Yes.**
 11 Q. And nothing like that ever happened?
 12 **A. Never did.**
 13 Q. So there was no discipline instituted?
 14 **A. No. The verbal reprimand would be discipline.**
 15 Q. Okay. So that's what she got was a verbal
 16 reprimand?
 17 **A. Yes. For any of it possibly happening. It was**
 18 **very broad and general, and that was it. There was no**
 19 **proof because he had admitted that it was exaggerated**
 20 **and written in anger.**
 21 Q. All right. Then you had another meeting on
 22 December 17th, 2003, correct?
 23 **A. Uh-huh. Yes.**
 24 Q. And who was at that meeting?

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1 Q. All right. Did Miss Freebery say anything at
 2 this meeting?
 3 **A. Yes.**
 4 Q. What did she say?
 5 **A. She talked about the comments that he had made,**
 6 **that they were offensive.**
 7 Q. Is this the first time you heard about it?
 8 **A. No. The 15th.**
 9 Q. Okay. Did you tell Mr. Wilcoxon what the
 10 comments were?
 11 **A. Miss Freebery did.**
 12 Q. She did? And what did she say the comments
 13 were?
 14 MR. WILLOUGHBY: I think this has been
 15 asked and answered a long time ago in the deposition.
 16 MR. WILSON: That's what Miss Freebery said
 17 in the initial meeting on the 16th. Were they the same
 18 comments on the 17th?
 19 THE WITNESS: Yes.
 20 BY MR. WILSON:
 21 Q. Did Mr. Wilcoxon deny the comments?
 22 **A. No. Actually he acknowledged it.**
 23 Q. How did he acknowledge it?
 24 **A. He said, oh, I was just joking, and she opened**

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1 the door. She started talking about when she went on 2 her honeymoon she was on a nude beach, so I thought it 3 was okay. To me that was an acknowledgment that he had 4 said something and that he knew what we were talking 5 about, what she was talking about.	1 very, very upset. That's what I was talking about. 2 Summer is a break and you come back and you're 3 refreshed. Hopefully that would have happened. 4 Q. So how did the tenured comment come into play? 5 A. I believe he asked me if this was going to be a 6 problem because he was non-tenured and I said you're 7 non-tenured, just acknowledging you're non-tenured and 8 actually I wasn't sure that he was non-tenured at that 9 point because I knew he had some time in at other 10 schools, didn't really think about it that much.
6 Q. Did Miss Freebery demand to know who advised him 7 to keep the journal?	11 Q. Did you begin consider terminating Mr. Wilcoxon 12 at that time?
8 A. No.	13 A. No. Again, my job was to try to work with him, 14 work with Janay, try to get that relationship working 15 again because it was very broken at that point, and I 16 had two teachers in the same space trying to work 17 together and that was going to be very hard on the 18 students, and I didn't want to see that happen.
9 Q. Did you ask?	19 Q. Okay. So that was the first meeting on December 20 17th, correct?
10 A. No demands.	21 A. Yes. With -- well, there were many meetings on 22 the 15th and 16th.
11 Q. Did you ask?	23 Q. Okay.
12 A. A request, yes, but that was at an earlier 13 meeting, I believe when it was just Mr. Wilcoxon there.	24 A. The 17th meeting with all of us, that's where
14 Q. Did Miss Freebery make a request at this meeting 15 to know who told him to keep the journal?	
16 A. I believe that she asked.	
17 Q. Did Mr. Wilcoxon tell her?	
18 A. No.	
19 Q. Did he say why not, why he wouldn't tell her?	
20 A. He wouldn't say why not, no.	
21 Q. Did this upset Miss Freebery?	
22 MR. WILLOUGHBY: Did what upset Miss 23 Freebery?	
24 MR. WILSON: That he refused to tell her	
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1 who told him to keep the journal. 2 THE WITNESS: Minor issue, minor compared 3 to everything else that was going on, absolutely. 4 BY MR. WILSON: 5 Q. Okay. Did you make a statement to Mr. Wilcoxon 6 that you needed to figure out how he and Miss Freebery 7 could finish out the year together?	1 that -- well, I don't even know when he said that. He 2 didn't say that there. I think he said that after 3 school that day. He came back in, met with Mr. Rumford 4 and I at one point and said I feel sick, I feel sick to 5 my stomach. I know that she just made accusations in 6 front of my supervisors. I know where that can lead. I 7 have researched this or I have experience with this. He 8 said something along the line that he knew what this -- 9 what this meant. He did. I didn't know what he was 10 talking about at that point.
8 A. I said we have got a long year, we need to 9 figure out how to make this work, and it was December, 10 so it was a long year, and there was huge tension and 11 great upset on both parts. He was very, very upset. 12 She was very, very upset, and so I said, yeah, we got a 13 long year, we got to figure out how to make this work.	11 Q. Okay. Did he deny making the comments at this 12 after-school meeting on December 17th?
14 Q. And did Mr. Wilcoxon ask you about this 15 statement?	13 A. I don't remember. At that point he was more 14 concerned with my comment about we have a long year 15 ahead of us. He took -- he interpreted that as at the 16 end of the year he wasn't going to be there. That was 17 not my intention.
16 A. Later he did.	18 Q. At the after-school meeting on December 17th did 19 he tell you that he thought that this was Miss 20 Freebery's way of getting back at him for keeping the 21 journal?
17 Q. Okay. And did you respond you're not tenured, 18 are you?	22 A. No. I don't remember that. And by that point 23 he had already said she opened the door. And he said it 24 in front of three people.
19 A. No, well, that comment was made in there 20 somewhere. But when he asked me why did I say that, he 21 said maybe I'm reading too much into this, but you said 22 we have a long year, and I said, Rich, yeah, you're 23 reading too much into it. We do have to get this year 24 -- we have a lot of time left this year and you're both	

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1 Q. Okay. And can you tell me again what he said
2 that she said to him. I know you said something about a
3 nude beach, is that correct?

4 MR. WILLOUGHBY: With respect to the
5 opening the door comment?

6 BY MR. WILSON:

7 Q. What comments Miss Freebery made to him?

8 A. **That opened the door?**

9 Q. That opened the door, yes.

10 A. **She had been on her honeymoon and she had been
on a nude beach. Later Mr. Rumford told me that he
heard that story, too, and it never led him to make any
remarks that were embarrassing or offensive to Miss
Freebery.**

11 Q. Okay.

12 A. **Other people also said they heard that comment,
that story.**

13 Q. Did he say she had made any other comments?

14 A. **No, did he not.**

15 Q. He never said to you that Miss Freebery's mother
told her that she should have sex with Mr. Hannah --

16 A. **No.**

17 Q. -- so he'd cut her grass?

18 MR. WILLOUGHBY: Let him finish the

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1 to Rich and see if we can figure out what was going on
2 with the second meeting.

3 (Recess taken.)

4 BY MR. WILSON:

5 Q. Everybody ready? All right. Miss Basara, I
6 think I got this cleared up now. Did you have a meeting
7 with Mr. Wilcoxon, just you two, that day or a
8 discussion on December 17th?

9 A. **I don't remember just meeting with the two of
us.**

10 Q. Okay.

11 A. **I was calling Frank in on the meetings, so he --
if he stopped in, I don't remember it.**

12 Q. Okay. With regard to the meeting where Mr.
13 Rumford and Miss Freebery were also present, could have
14 anything that was to be discussed at that meeting
15 adversely affect Mr. Wilcoxon's employment at Red Clay?

16 A. **At that particular time? No.**

17 Q. And did you make a statement to Mr. Wilcoxon to
18 that effect?

19 A. **Yes. I told him look, we're not trying to fire
you, Rich. We need you guys to work this out.**

20 Q. Okay. And there was another meeting on January
21 22nd, 2004?

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1 question.

2 THE WITNESS: No, he did not tell me that.

3 BY MR. WILSON:

4 Q. He didn't tell you that Miss Freebery said to
5 him Bruce cut my grass and I didn't even have to have
6 sex with him?

7 A. **He did not tell me that. I do not remember that
comment. I read that in the deposition.**

8 Q. Okay. So that was the after-school meeting on
9 December 17th?

10 A. **Yes.**

11 Q. And we have already talked about one other
12 meeting on December 17th, that was the first meeting?

13 A. **The one with all four of us, yes.**

14 Q. And there was a meeting in the middle, too,
15 correct?

16 A. **I don't remember. Who was that meeting with?**

17 Q. I was going to ask you that question.

18 A. **I don't remember that. I know at the end of the
day Mr. Wilcoxon came in and he was -- he truly was
upset and felt that there was some process that was in
place that I was not aware of that but he apparently was
aware of and that was the next conversation I remember.**

19 Q. All right. Let me take a short break and talk

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1 A. **Yes.**

2 Q. Correct? And do you recall who was at that
3 meeting?

4 A. **Mr. Rumford, Mr. Bartoli, myself, and
Mr. Wilcoxon.**

5 Q. Who is Mr. Bartoli?

6 A. **He was the -- he was a retired administrator who
was assigned to Red Clay to help with observations when
Mr. -- or Dr. Manolakas went out sick.**

7 Q. Did Mr. Wilcoxon have a union representative
8 with him at that meeting?

9 A. **No, he didn't.**

10 Q. All right. I'd like to mark this exhibit as 4.
11 (Basara Deposition Exhibit Basara-4 was
12 marked for identification.)

13 BY MR. WILSON:

14 Q. Okay. Have you had a chance to review that?

15 A. **Yes.**

16 Q. Is that your handwriting?

17 A. **Yes.**

18 Q. And what's the date on that?

19 A. **1-22.**

20 Q. Do you recall -- so does that mean you gave him
21 this memo?

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1 **A. Uh-huh.**
 2 Q. On 1-22?
 3 **A. Yes.**
 4 Q. Do you recall about what time?
 5 **A. I don't remember what time.**
 6 Q. Okay. Is there any mention of the specific
 7 reason for the meeting on this?
 8 **A. Nope.**
 9 Q. Is there any indication of who would be present?
 10 **A. No.**
 11 Q. Okay. At this meeting on January 22nd
 12 Mr. Wilcoxon was given some disciplinary letters,
 13 correct?
 14 **A. Yes.**
 15 Q. Okay. I'd like to have this marked.
 16 (Basara Deposition Exhibit Basara-5 was
 17 marked for identification.)
 18 BY MR. WILSON:
 19 Q. Have you had a chance to review that?
 20 **A. Yes.**
 21 Q. And at the top it states from Janet Basara,
 22 correct?
 23 **A. Uh-huh.**
 24 Q. Are those your initials next to it?

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1 **so that there would be no misunderstanding that he had**
 2 **been warned that if these comments continued she was**
 3 **going to press charges.**
 4 Q. Okay. And this letter references the December
 5 17th, 2003 meeting, correct?
 6 **A. Yes. Right.**
 7 Q. So there was some discipline that came out of
 8 that December 17th meeting, correct?
 9 **A. This is just a statement that we had the meeting**
 10 **and that those comments needed to be stopped.**
 11 Q. Okay. And if the comments --
 12 **A. Continued there would be action.**
 13 Q. And if they stopped there would be no further
 14 action?
 15 **A. Right. She was not pressing charges at that**
 16 **time.**
 17 Q. So this letter is not a form of discipline?
 18 **A. Yes, it is.**
 19 Q. Okay.
 20 **A. It's a statement of what happened, and what was**
 21 **discussed.**
 22 Q. All right. And when you presented -- was this
 23 the first letter you gave to Mr. Wilcoxon at that
 24 meeting?

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1 **A. Yes.**
 2 Q. And the date says January 20th, 2004?
 3 **A. Correct.**
 4 Q. And in handwriting beside it it says 1-22-04?
 5 **A. Correct.**
 6 Q. JB?
 7 **A. Yes.**
 8 Q. Is that your writing?
 9 **A. Yes. Do you want to know why?**
 10 Q. Yes.
 11 **A. He was out of school for three days previous to**
 12 **the 20th. The 20th he was expected to be back in**
 13 **school, and so when I wrote the letters I planned to**
 14 **meet with him on the 20th but he was absent two**
 15 **additional days and so I had to wait two more days to**
 16 **the 22nd to have our meeting.**
 17 Q. Okay. And what was he being disciplined for
 18 with this letter?
 19 **A. This letter was a statement that we had met, we**
 20 **talked, that there were comments made. This was a**
 21 **documentation of the meeting that we had the meeting.**
 22 **In addition, Miss Freebery was going to press charges if**
 23 **it happened again, and so I felt it was important that**
 24 **he have that in writing should another comment be made**

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1 **A. Yes. Yes.**
 2 Q. When you presented him with this letter did he
 3 request a union representative?
 4 **A. Yes.**
 5 Q. Was he provided one?
 6 **A. No. What I told him was that at this time I'm**
 7 **meeting with him as a principal with a teacher and he**
 8 **could receive the letters and then go directly to his**
 9 **representative and talk to them and then we would meet**
 10 **again, but all I was doing was giving him the letters at**
 11 **that point. He did not need to make any comments**
 12 **whatsoever. I wasn't asking him to comment.**
 13 Q. So you told him he couldn't have a union
 14 representative?
 15 **A. I just said, all I'm going to do is give you the**
 16 **letters. You can take them directly to your**
 17 **representative or you can call Mr. Norton, you can do**
 18 **whatever you need and then we'll deal with that. But**
 19 **this was just a matter of getting the letters to him**
 20 **which could have been mailed or put in his mailbox but I**
 21 **was handing them to him.**
 22 Q. Okay. I'd like to mark another exhibit.
 23 (Basara Deposition Exhibit Basara-6 was
 24 marked for identification.)

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22 (Pages 82 to 85)

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1 BY MR. WILSON:
 2 Q. All right. Miss Basara, you're free to read
 3 this whole thing if you want, but I can let you know
 4 that the questions I am going to be asking you will
 5 pertain to article 4, beginning on page six and going
 6 into page seven where it says 4:4.1?
 7 A. Uh-huh. Uh-huh.
 8 Q. Okay. What is this?
 9 A. **This is the contract.**
 10 Q. Okay. And on the cover of this it says
 11 September 1st, 2002?
 12 A. Uh-huh.
 13 Q. Through August 31st, 2005?
 14 A. **Correct.**
 15 Q. Is this the effective date of the agreement?
 16 A. **Yes.**
 17 Q. Okay. Are you familiar with this document?
 18 A. **Yes.**
 19 Q. Turning to the section that I referenced, 4:4.1,
 20 do you believe you violated any part of this section by
 21 virtue of your meeting with Mr. Wilcoxon?
 22 A. **No, I do not.**
 23 Q. And why not?
 24 A. **Because the Board means the district level. A**

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1 Q. So now it's your testimony that you don't
 2 remember?
 3 MR. WILLOUGHBY: First of all, I object. I
 4 think you're twisting things around and trying to apply
 5 things to a contract that you definitely have a
 6 technical legal meaning on and trying to twist her
 7 language into saying that she says she's not acting as
 8 an administrator in the district. She's obviously
 9 acting as an administrator in the district. That
 10 doesn't mean she's an agent of the Board for this
 11 section of the contract. She's already told you what
 12 her understanding of the contract is.
 13 THE WITNESS: And I sought advice on that.
 14 I asked district personnel does this -- what does this
 15 mean, and I was told that this meant if it was a
 16 district level meeting where his -- where any of these
 17 issues were going to come up, he had 48-hours notice
 18 from that. But that a principal can meet with a teacher
 19 at any time, otherwise we'd never get anywhere.
 20 BY MR. WILSON:
 21 Q. Okay. What about at the bottom of the page six,
 22 the last sentence where it says in formal discussion
 23 with an employee by any member of - I can't even read
 24 that.

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1 **principal can meet with a teacher at any time. If he**
 2 **was being called before the Board at a district level he**
 3 **needs 48 hours notice and a rep.**
 4 Q. Actually it says a Board or an agent thereof?
 5 A. Uh-huh. **Which would be a district level person**
 6 **or the Board.**
 7 Q. Okay.
 8 A. **The Board of --**
 9 Q. Go ahead.
 10 A. **Red Clay School Board.**
 11 Q. Didn't you state at the beginning of your
 12 deposition that you acted on behalf of the Board?
 13 MR. WILLOUGHBY: We're not representing
 14 that. You're asking for a legal conclusion at this
 15 point that trying to interpret the contract from her.
 16 She said she was an acting principal.
 17 MR. WILSON: Right.
 18 MR. WILLOUGHBY: I never remember her
 19 saying anything like that.
 20 MR. WILSON: I think she did.
 21 MR. WILLOUGHBY: I don't.
 22 BY MR. WILSON:
 23 Q. Did you say that?
 24 A. **I don't remember saying that.**

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1 A. **I can't either.**
 2 Q. Pertaining to the employee's performance at
 3 his/her work location will not be precluded by the
 4 preceding language of this section. However, if as a
 5 result of such informal discussion employee perceives
 6 that the matter discussed in the future could adversely
 7 affect his or her continued employment, salary, or
 8 increments, the administrator will, upon written
 9 request, give the employee reasons in writing for the
 10 necessity of waiving the 48-hours written notice
 11 prescribed above.
 12 Is that what that says?
 13 A. **Yes. I don't know what it means really.**
 14 Q. Okay. So you wouldn't interpret this language
 15 as -- of this informal discussion that they identify as
 16 a discussion with -- at your level with a teacher?
 17 MR. WILLOUGHBY: I object, first of all,
 18 because she's not a lawyer, but the language says upon
 19 written request. So you haven't laid a foundation to
 20 say this would even be applicable. The employee has to
 21 make a written request. That's what it says. So if you
 22 want to lay some foundation questions about whether or
 23 not he asked in writing for someone there, then that's
 24 fine, but . . .

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1	BY MR. WILSON:		1 but you generally don't just make comments unless he
2	Q. Did Mr. Wilcoxon state to you that he wanted a		2 asks you a question.
3	union representative?		3 THE WITNESS: Okay. I'll withdraw the
4	A. Yes.		4 comment.
5	MR. WILLOUGHBY: I think it's been asked		5 BY MR. WILSON:
6	and answered.		6 Q. Okay. Can I have that marked?
7	BY MR. WILSON:		7 (Basara Deposition Exhibit Basara-7 was
8	Q. Did he have the opportunity to give you a		8 marked for identification.)
9	written request?		9 BY MR. WILSON:
10	A. I wasn't asking him to discuss this. I was		10 Q. Let me know when you're done reviewing this
11	simply giving him the letters. A discussion would		11 document.
12	follow.		12 A. Okay.
13	Q. But it did lead to discipline, correct?		13 Q. Is this the second letter you gave Mr. Wilcoxon?
14	A. At that time we didn't know where it was going		14 A. Yes.
15	to lead.		15 Q. And this is because his lesson plans were
16	Q. But didn't you testify that the letter was a		16 completely inadequate?
17	disciplinary letter?		17 A. Correct.
18	MR. WILLOUGHBY: She said the letter was		18 Q. Okay. When did you determine they were
19	discipline but that's not what she said. You're		19 completely inadequate?
20	twisting her language again.		20 A. When I saw them.
21	MR. WILSON: So it led to discipline.		21 Q. And was that when Mr. Wilcoxon was absent?
22	MR. WILLOUGHBY: She didn't say that. She		22 A. Yes.
23	said there was a meeting and subsequently he was		23 Q. The day that Mr. Rumford found the journal?
24	disciplined but she didn't say the meeting is what led		24 A. No.
		Page 91	Page 93
1	to the discipline.		1 Q. No?
2	BY MR. WILSON:		2 A. This was another -- the second time.
3	Q. Was Mr. Wilcoxon disciplined at this meeting?		3 Q. Okay. When does this pertain to?
4	MR. WILLOUGHBY: December 17 or January?		4 A. This was when he went to Hawaii.
5	BY MR. WILSON:		5 Q. And what's an approximation of what month that
6	Q. January 22nd?		6 was?
7	A. He was given three letters. He was given three		7 A. January 14th, 15th and 16th.
8	letters. He wasn't asked to discuss it. He wasn't		8 Q. What was wrong with his lesson plans then?
9	asked to explain it. I assumed that would come in a		9 A. Did you see them?
10	meeting with his rep after he had a chance to talk to		10 Q. No.
11	him. How could he talk to him without the letters in		11 A. You didn't see the plans?
12	his hand?		12 Q. I may have, but you can explain to me.
13	Q. So he received disciplinary letters at this		13 MR. WILLOUGHBY: I think you should see
14	meeting?		14 them if you want her to explain them. They're marked in
15	A. Yes.		15 the deposition over there. If you want her to give a
16	Q. Okay. All right. After you gave him the letter		16 global response without seeing them, she can.
17	regarding the inappropriate comments, you gave him a		17 MR. WILSON: If she can just give me a
18	letter regarding his lesson plans, correct, or		18 general idea of what was wrong with them, I'll be happy
19	substitute plans?		19 with that.
20	A. May I add something about this 48 hours?		20 THE WITNESS: It said shoot around
21	MR. WILLOUGHBY: No.		21 basketball for day one. Day two, repeat day one. Those
22	MR. WILSON: Sure. Go ahead.		22 are inadequate plans. There was not a class list,
23	MR. WILLOUGHBY: He's asked you to go ahead		23 again, which is what started all this in the first
24	now. If there is a pending question you can answer it,		24 place, nor a bell schedule.

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24 (Pages 90 to 93)

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<p style="text-align: right;">Page 94</p> <p>1 BY MR. WILSON: 2 Q. He got one more letter that day, correct? 3 A. Yes. 4 Q. Mark this 8. 5 (Basara Deposition Exhibit Basara-8 was 6 marked for identification.) 7 THE WITNESS: All right. 8 BY MR. WILSON: 9 Q. Okay. Is this the third letter that you gave 10 him that day? 11 A. Yes. 12 Q. Okay. What does this pertain to? 13 A. There were after-school activities every day at Skyline, and whoever was keeping students was supposed to sign up in the morning putting the number of students that they would be keeping that would need a city bus or a suburban bus. It was broken into two sections. The purpose of that was so that we had enough buses to take the students home who were staying after school. Some days we needed two buses, sometimes three, sometimes four, depending on how many activities there were after school. If teachers did not sign up then we would not know that there were activities. It was Miss Freebery's responsibility to check that during her first planning</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. During that school year? 2 A. No. But I did verbally tell some people. 3 Q. Did you verbally tell some people more than once? 4 A. Never more than once. Once was enough. 5 Q. Are you sure you talked to Mr. Wilcoxon? 6 A. I don't want to say a hundred percent I did but I believe that I did. I believe there was a conversation about the buses. But I don't remember exactly when it was. 7 Q. Do you recall a student faculty basketball game during the 2003-2004 school year? 8 A. Yes. 9 Q. Okay. Initially Mr. Wilcoxon and Mr. Rumford were supposed to organize this game, correct? 10 A. And a parent, Mrs. Perez. 11 Q. Who is Mrs. Perez? 12 A. She's a parent and she also works in the in-school suspension. She was actually in charge. 13 Q. Okay. And Mr. Wilcoxon made the initial calls to Mrs. Perez to get the organization of the game going, didn't he? 14 A. I don't know. 15 Q. The organization of this game when it first</p>
<p style="text-align: right;">Page 95</p> <p>1 period and call in for the buses. That was the routine. 2 Teachers had been asked to please remember to do that, 3 and he continued to forget. He asked Mr. Rumford how do 4 I remember to do this? I keep forgetting. 5 Q. Had you talked to him about this prior to giving 6 him this letter? 7 A. I gave two notices to the staff. 8 Q. Did you talk to Mr. Wilcoxon personally? 9 A. I believe two notices to the whole staff should suffice. And I believe I did talk to him besides that, that the buses are important, you have got to sign up for the buses, especially since he often kept as many as 50 students for an activity. That's an entire bus. 10 Q. Was he the only person who failed to do this? 11 A. The only person ever in the whole time at Skyline? 12 Q. No. In the school year 2003-2004? 13 A. I couldn't say that he would be the only one. 14 The first step would be to remind people and that's why we did the letters to everybody, or the reminder to everybody. 15 Q. Do you recall giving a letter such as this to anybody else? 16 A. No.</p>	<p style="text-align: right;">Page 97</p> <p>1 started began before the issue with the journal arose, correct? 2 A. Again, I don't know. I don't know when that started. I think it would be after because I think that was in the spring. 3 Q. Was Miss Freebery initially on the team to organize this game? 4 A. I honestly don't know. This was being organized by the family committee of the SSA or PTO group. 5 Q. What does SSA -- 6 A. Student Support Association. It was a Parent-Teacher Organization and they had a family committee and this was a family night to have the basketball game with the staff and students. 7 Q. All right. I'd like to have this marked. I guess we're up to 9 now. 8 (Basara Deposition Exhibit Basara-9 was marked for identification.) 9 THE WITNESS: Okay. 10 BY MR. WILSON: 11 Q. Do you recall getting this e-mail? 12 A. I don't really remember but it does say it came to me and I do believe -- I don't remember the wording of all of this but I believe that I sent him a response</p>

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<p>1 to the effect that no, you can be on the committee, we</p> <p>2 need all the help we can get.</p> <p>3 Q. But why is it Mr. Wilcoxon was taken off the</p> <p>4 committee?</p> <p>5 A. I don't know.</p> <p>6 Q. It wasn't your decision?</p> <p>7 A. No.</p> <p>8 Q. Do you know whose decision it was?</p> <p>9 A. I don't know. I didn't even know he was taken</p> <p>10 off.</p> <p>11 Q. Well --</p> <p>12 A. Obviously that's what he's saying in here.</p> <p>13 Q. Let's mark this one, too, then.</p> <p>14 (Basara Deposition Exhibit Basara-10 was</p> <p>15 marked for identification.)</p> <p>16 THE WITNESS: Well, I didn't write this.</p> <p>17 Oh, okay. This date was changed to go with the</p> <p>18 referendum because we wanted to bring in parents to</p> <p>19 vote.</p> <p>20 BY MR. WILSON:</p> <p>21 Q. Okay. What is this?</p> <p>22 A. I don't know. This looks like a sign-up. I</p> <p>23 didn't write this.</p> <p>24 Q. But it says from you, Frank Rumford and Janay</p>	<p>1 teaching with Miss Freebery.</p> <p>2 Q. Okay. And what's the date on this?</p> <p>3 A. November 19th, 2003.</p> <p>4 Q. Okay. And on the third page of this --</p> <p>5 A. If I could also add, it is an announced</p> <p>6 observation. If you see the check at the top.</p> <p>7 Q. Uh-huh.</p> <p>8 A. Okay.</p> <p>9 Q. On the third page, the one that's marked at the</p> <p>10 bottom 0103?</p> <p>11 A. Uh-huh.</p> <p>12 Q. Is that your signature?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Then there is some language in italics</p> <p>15 above the signature lines?</p> <p>16 A. Uh-huh.</p> <p>17 Q. What does that say?</p> <p>18 A. Nice -- nice lesson, Rich. You were clear and</p> <p>19 guided the students to understand the terms you would be</p> <p>20 using in this unit. The students were respectful and</p> <p>21 responsive. Keep up the good work.</p> <p>22 Q. Okay. Was this a favorable observation?</p> <p>23 A. This was a good observation. There were a</p> <p>24 couple of suggestions in there, recommendations.</p>
<p style="text-align: center;">Page 99</p> <p>1 Freebery?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Would you agree that those are the primary</p> <p>4 actors for the organization of this game?</p> <p>5 A. Well, I wasn't a part of this at all. I didn't</p> <p>6 get involved in this piece of it, although I was doing a</p> <p>7 lot of other activities for the referendum night.</p> <p>8 Q. And Mr. Wilcoxon's name isn't on there, is it?</p> <p>9 A. Correct. This is just a request for anybody</p> <p>10 that wants to join, help us out.</p> <p>11 Q. Okay. As acting principal you were required to</p> <p>12 perform observations of teachers, correct?</p> <p>13 A. Correct.</p> <p>14 Q. All right. I'd like to go over some of the</p> <p>15 lesson analysis.</p> <p>16 A. Okay.</p> <p>17 (Basara Deposition Exhibit Basara-11 was</p> <p>18 marked for identification.)</p> <p>19 BY MR. WILSON:</p> <p>20 Q. Let me know when you have had time to look over</p> <p>21 that.</p> <p>22 A. Okay. I remember this. Okay.</p> <p>23 Q. What is this?</p> <p>24 A. This was an observation where he was team</p>	<p style="text-align: center;">Page 101</p> <p>1 Q. But overall favorable?</p> <p>2 A. Yes. There was a recommendation on 0102, that</p> <p>3 he write his performance indicators on the board to help</p> <p>4 the students focus on the main idea, that's part of an</p> <p>5 effective lesson, and also to try to get to some higher</p> <p>6 level questions, there were none, and that was my</p> <p>7 suggestion or recommendation, that he try to get those</p> <p>8 included into the unit.</p> <p>9 Q. Okay. Okay. Here is the next one.</p> <p>10 (Basara Deposition Exhibit Basara-12 was</p> <p>11 marked for identification.)</p> <p>12 THE WITNESS: Okay. Now this lesson I</p> <p>13 haven't seen. Okay.</p> <p>14 BY MR. WILSON:</p> <p>15 Q. Okay.</p> <p>16 A. That's the first time I saw that one.</p> <p>17 Q. Okay. Can you identify what this is?</p> <p>18 A. Mr. Bartoli did a lesson analysis.</p> <p>19 Q. Okay. And again, can you tell us who</p> <p>20 Mr. Bartoli is?</p> <p>21 A. He was the retired principal who came in to help</p> <p>22 out with observations.</p> <p>23 Q. On the second page, there is a number of boxes,</p> <p>24 the bottom one?</p>

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1 **A. Uh-huh.**
 2 Q. Commendations, recommendations, areas for
 3 growth, comments?
 4 **A. Uh-huh.**
 5 Q. States Mr. Wilcoxon is to be commended for his
 6 organizational planning such as his preparation for the
 7 lesson, setting up the gymnasium, use of squads, posting
 8 of the standards, rotation of players and taking
 9 attendance. References to the standards were used in
 10 the presentation of the lesson and also included in the
 11 closure of the lesson. Reviews of the rules of the game
 12 were covered prior to having the students starting the
 13 activity.
 14 Is that what that says?
 15 **A. Yes. I would hope that he would put his**
 16 **standards on because that was the recommendation that I**
 17 **made in his other observation.**
 18 Q. So based on your review of this, is this a good
 19 observation by Mr. Bartoli?
 20 MR. WILLOUGHBY: You didn't ask her to --
 21 BY MR. WILSON:
 22 Q. Did you look over the entire document?
 23 **A. Yes, there were three recommendations, one**
 24 **commendation.**

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1 **A. Uh-huh. I think there is a page missing. There**
 2 **is a page missing.**
 3 Q. What page?
 4 **A. It would have been the one before the signature**
 5 **page.**
 6 Q. Okay. Do you recall what was on that page?
 7 **A. It would have been my recommendations and**
 8 **commendations and more of what happened in class, I**
 9 **suppose.**
 10 MR. WILLOUGHBY: Here is, I got . . .
 11 Do you want to mark that one as the next
 12 one so we have the page? What number are we up to?
 13 MR. WILSON: Okay. I'll just get some
 14 copies of this made.
 15 MR. WILLOUGHBY: If you just want to mark
 16 it as the next exhibit, I have got copies here.
 17 MR. WILSON: You do?
 18 MR. WILLOUGHBY: Yes. What number are we
 19 on?
 20 MR. WILSON: This would be 14.
 21 (Basara Deposition Exhibit Basara-14 was
 22 marked for identification.)
 23 BY MR. WILSON:
 24 Q. Off the record.

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1 Q. Okay. Overall was this a good --
 2 **A. Acceptable.**
 3 Q. And you referred to the last one as an announced
 4 observation, and on the front page of this there is a X
 5 beside --
 6 **A. Unannounced, correct.**
 7 Q. -- unannounced. So is this an unannounced
 8 observation?
 9 **A. Correct, and it was PE rather than health,**
 10 **totally different setting.**
 11 Q. How so?
 12 **A. One is in the gym, students are being active,**
 13 **and the other one was in an auditorium-type setting**
 14 **called the multi-purpose room where students were doing**
 15 **written work, reading, discussion, small group work.**
 16 Q. And as of February 12th, 2004 Mr. Wilcoxon was
 17 no longer team teaching with Miss Freebery, was he?
 18 **A. Probably not by then. Absolutely not.**
 19 Q. Okay. I'd like to have that marked as 13.
 20 (Basara Deposition Exhibit Basara-13 was
 21 marked for identification.)
 22 BY MR. WILSON:
 23 Q. Okay. Can you review that and let me know when
 24 you're finished?

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1 (Discussion held off the record.)
 2 THE WITNESS: Okay.
 3 BY MR. WILSON:
 4 Q. Okay. You have been handed two exhibits, one
 5 was exhibit 13 and one is exhibit 14. When you were
 6 handed 13 you indicated that one page was missing and
 7 Mr. Willoughby was kind enough to supply one with all
 8 the pages intact. So I am going to ask you about
 9 exhibit 14, okay?
 10 **A. Okay.**
 11 Q. And can you tell us what this is?
 12 **A. This is a lesson analysis, unannounced, in**
 13 **health which was in the multi-purpose room.**
 14 Q. And is that your signature on --
 15 **A. Yes.**
 16 Q. -- the third page -- excuse me, fourth page?
 17 **A. Uh-huh. Yes.**
 18 Q. So you conducted this --
 19 **A. Yes.**
 20 Q. -- analysis?
 21 **A. Yes.**
 22 Q. Did Mr. Wilcoxon receive unsatisfactory grades
 23 on this lesson analysis?
 24 **A. Well, there is no term for that.**

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<p style="text-align: right;">Page 106</p> <p>1 Q. Okay. Let me rephrase it. Is this an 2 unsatisfactory lesson analysis?</p> <p>3 A. There were parts of it that were unsatisfactory. 4 They're stated in the recommendations.</p> <p>5 Q. Okay. And what is that?</p> <p>6 A. Do you want me to read them all?</p> <p>7 Q. Well, you can just mention them if you can.</p> <p>8 A. Mr. Wilcoxon had written an objective on the 9 board but the screen was pulled down so the kids 10 couldn't see what he wrote up there, so I was basing 11 what his objective was on what he said rather than what 12 he wrote, and I felt that it wasn't clear enough 13 compared to what it should have been, what it could have 14 been, that that piece is critical, and that's been 15 stated in previous observations.</p> <p>16 Q. Okay. Is that it?</p> <p>17 A. Oh, no. I recommended in here that he do more 18 careful planning when he does a group assignment. The 19 students were allowed to just pick their own groups and 20 move wherever they wanted. Having been a classroom 21 teacher myself I know you need to give some direction to 22 that. Oftentimes you would want to put students 23 together who could work well together, for example a 24 high rating student with a lower rating student, and you</p>	<p style="text-align: right;">Page 108</p> <p>1 they need to be prepared who is going to speak on their 2 behalf and what is that person going to say, to stand up 3 and do that. He did not give that direction in the 4 beginning of the lesson but as everybody returned to 5 their seats then he said okay, so I want to have 6 somebody come up and tell us what you did.</p> <p>7 There was a serious issue with noises where 8 the students were whistling and one student started on 9 one side of the room making a whistle sound and when 10 Mr. Wilcoxon looked that way another student on the 11 other side of the room whistled and when he looked over 12 that way another student made a whistle somewhere else, 13 so he was trying to figure out who was doing what. And 14 that seemed to be students were embarrassing him. That 15 doesn't happen normally.</p> <p>16 Q. Okay.</p> <p>17 A. That went on for quite a bit. He did attempt to 18 stop that by saying everybody -- by saying to the whole 19 group, you need to stop, stop that. And then at one 20 point he said if you do that again you're going to get 21 sent out but he did not look at a particular student 22 when he said that. He just said it in general. Well, 23 if you don't know who is doing it how are you going to 24 send them out and the kids know that. So then that</p>
<p style="text-align: right;">Page 107</p> <p>1 look for those differences in order to help students 2 help each other. There didn't appear to be anything 3 like that going on. Students were able to pick whoever 4 they wanted to work with, which is fine, that happens 5 from time to time also.</p> <p>6 He said that they could move to their 7 groups, and everybody moved over to the same side except 8 for two groups, one behind and one to the side. That 9 clustered so many kids together that they then became 10 loud in trying to talk to each other. Again, we're in 11 an auditorium, kind of a horse-shoe shape, and one 12 group, the groups were lining themselves this way, chair 13 one, two, three and four. So when partner one is 14 talking to partner four he has to yell. So had he 15 thought that through a little bit he might have put them 16 in a group of four so that they could have talked to one 17 another in a lower voice. But he had what, 34 students 18 in there? 38 students, and so in forming groups my 19 suggestion was that he think it through a little bit 20 more, and make those kinds of directions clear to the 21 students.</p> <p>22 He also had not told the students initially 23 that they were going to be making a presentation. If 24 students know they're going to make a presentation then</p>	<p style="text-align: right;">Page 109</p> <p>1 becomes a threat that you can't follow through on which 2 undermines your authority.</p> <p>3 Q. Now, this --</p> <p>4 MR. WILLOUGHBY: I don't think she was</p> <p>5 done.</p> <p>6 MR. WILSON: Okay.</p> <p>7 THE WITNESS: No, there is more.</p> <p>8 BY MR. WILSON:</p> <p>9 Q. Okay.</p> <p>10 A. Let's see. Clearer directions was in here as a 11 recommendation that the students have all the 12 information, such as you're going to need to report out, 13 pick a person to report for your group. That needed to 14 be clearer.</p> <p>15 Off task, when attempting to control . . .</p> <p>16 When students close an activity or when he closes an 17 activity for the day, then you should revisit the 18 standard, what was it you were trying to teach the 19 students, and then you want them to tell you that in 20 that -- in the reporting out you would expect to hear 21 the students got what they were supposed to learn, and 22 there was no connection there. And I recommended that 23 he try to have closure match up with the performance 24 indicators. I suggested heterogenous groupings was a</p>

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1 great idea. I'm glad that he tried to group students
 2 because that's a good way to learn, but that it would
 3 have been more effective if he put highs with lows or
 4 one behavior problem in a group or something like that,
 5 some way that you differentiate based on some individual
 6 need.

7 This lesson was not brought to closure.
 8 And, again, higher order thinking questions was
 9 encouraged. He had two in the lesson and I was
 10 suggesting that he put more, which is similar to what I
 11 had said in the other one.

12 Q. Is that it?

13 A. I think so.

14 Q. Okay. Did he do anything good?

15 A. Yes.

16 Q. Okay. Can you tell me that?

17 A. He varied the activities. He had some whole
 18 group discussion. He did review what he had done the
 19 day before. You want to mix it up a little bit. Kids
 20 can't sit there for 45 minutes and listen, so he did
 21 have them try group activities. To have them present
 22 out to the class was a good idea. It just wasn't
 23 executed in a good way. It could have been improved.
 24 Having students work together in groups of four was a

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1 Q. Unacceptable?
 2 A. Unacceptable. Lots of way to improve, and after
 3 two years I wouldn't expect to see the same -- these
 4 kinds of problems.

5 Q. Had he had an unacceptable observation prior to
 6 this?

7 A. Just what we read, there were recommendations in
 8 there, in the first one that I did.

9 Q. But those were acceptable?

10 A. They were relatively acceptable. The first one
 11 was with a team teacher. The team teacher was Miss
 12 Freebery was keeping classroom control as he was
 13 teaching. She was adding in pieces that he forgot
 14 during that team teaching time. This time he was on his
 15 own for the first time.

16 Q. Well, he was on his own with Mr. Bartoli,
 17 correct?

18 A. In the gym. In the gym. A different set.

19 Q. Okay. And when Miss Freebery would get observed
 20 when they were team teaching she would have the benefit
 21 of Mr. Wilcoxon's presence, too, as well, correct?

22 A. I suppose. I can't say I observed her with
 23 that. I don't remember that.

24 Q. Did you observe Miss Freebery during this school

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1 good idea so that they could talk through and more
 2 people can share in that way, so those were compliments.

3 Let's see. The activities that he had were
 4 good. The discussion that he had about news articles or
 5 magazine articles and how they tried to get you to buy
 6 cigarettes, that was a good lesson to have so the kids
 7 can understand the influences.

8 I didn't feel that he really made that
 9 point and that was a suggestion in here, in that there
 10 was a discussion early on in this lesson, what could you
 11 buy with the money that you saved from cigarettes. If
 12 you didn't buy cigarettes, how much money would you save
 13 in a year and what could you buy, and then it dropped
 14 and it was sort of -- would have been a lot better if
 15 you then came to the conclusion as a group or
 16 individuals came to the conclusion then we shouldn't
 17 smoke, then we're wasting our money, but that was a
 18 piece that just -- it just fell because it didn't get
 19 concluded.

20 Q. Okay. Are you done?

21 A. Yes.

22 Q. Okay. Would you view this as an acceptable
 23 observation?

24 A. Not particularly.

1 year?

2 A. During that school year it was probably not my
 3 -- she wasn't on my list, I don't think. We split the
 4 teachers that we would observe.

5 Q. Who split the teachers?

6 A. Mr. Bartoli and I. It would have been
 7 Dr. Manolakas and I, so Mr. Bartoli took over
 8 Mr. Manolakas's list.

9 Q. Why did Mr. Wilcoxon get observed by both you
 10 and Mr. Bartoli?

11 A. I asked him to go in and do an observation.

12 Q. Why did you do that?

13 A. Well, because I thought we needed an extra
 14 observation or we should have some extra observations on
 15 him because he was having some issues but he did a
 16 relatively good job in the gym.

17 Q. After the issue with the journal came up was
 18 there some sort of animus between you and Mr. Wilcoxon?

19 A. No, not that I know of, although he claims there
 20 was.

21 Q. Okay. So from your perspective everything
 22 seemed normal?

23 A. Yes.

24 Q. You communicated with him --

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29 (Pages 110 to 113)

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1 A. Yes.	1 BY MR. WILSON:
2 Q. -- just as much as you always had?	2 Q. With regard to the lack of proper student lesson
3 A. Yes.	3 plans, if you look at his performance appraisal, exhibit
4 Q. Okay. We're going to mark another one.	4 number 15, didn't he rate effective there?
5 (Basara Deposition Exhibit Basara-15 was	5 A. This one?
6 marked for identification.)	6 Q. Yes.
7 Q. Can you tell me what this is?	7 A. No. Unsatisfactory. Instructional planning.
8 A. Performance appraisal for the end of the year.	8 Q. Okay. What's the difference between
9 Q. For the end of the school year 2003-2004?	9 instructional planning and instructional strategies?
10 A. Correct.	10 A. Strategies would be small groups, whole group,
11 Q. And is that your signature on the last page?	11 using a ditto or a movie as opposed to a discussion,
12 A. Yes.	12 differentiating instruction are the strategies that you
13 Q. Okay. Just briefly can you identify the areas	13 use.
14 where Mr. Wilcoxon received effective -- the categories	14 Q. Okay.
15 that Mr. Wilcoxon was rated effective?	15 A. Instructional planning is that you can write a
16 A. That was organization and management, barely but	16 lesson plan, that you include the elements of an
17 effective, instructional strategies, student-teacher	17 effective plan, and you have substitute plans on hand,
18 interactions, and evaluations of student performances.	18 and you plan.
19 Q. And what categories was he graded as	19 Q. Okay. Classroom management is a reason for
20 unsatisfactory?	20 termination as well, correct?
21 A. Instructional planning and related	21 A. Yes.
22 responsibilities.	22 Q. And on his performance appraisal under number
23 Q. Okay.	23 two, organization and management of classroom, he
24 A. What goes into this is the observations, letters	24 received an effective grade?
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1 and anything that -- this is a whole -- a whole series	1 A. That's right. But it was weak. If you ever
2 of things that would go into this. When you do a lesson	2 have a class that is making you look foolish in front of
3 analysis it's one day, one lesson. When you do a	3 an administrator that's very weak.
4 performance appraisal it includes everything that's	4 Q. But it's marked effective, is it not?
5 happened.	5 A. Because I was including other observations in
6 Q. Okay.	6 order to be fair. If I took only one observation then
7 (Basara Deposition Exhibit Basara-16 was	7 that wouldn't have been fair to him. So I was including
8 marked for identification.)	8 all of his observations, and when he was in the gym he
9 BY MR. WILSON:	9 had relatively good control on that day. When he was in
10 Q. You have been handed what's been marked exhibit	10 with a team teacher he had control on that day. But he
11 16. Can you tell me what that is?	11 did have problems with sending a lot of students out and
12 A. This looks like a letter that was sent to	12 he did have problems on that one observation. So it was
13 Mr. Wilcoxon from Miss Dunmon, Assistant Superintendent.	13 weak but it wasn't something that I felt was completely
14 Q. Okay. And does it set forth the reasons for his	14 ineffective.
15 termination?	15 Q. Okay. And for the other reason, inappropriate
16 A. Yes.	16 interaction with staff, do you know what that refers to?
17 MR. WILLOUGHBY: You have said termination.	17 Strike that.
18 You mean nonrenewal?	18 Does that refer to the incident with Miss
19 MR. WILSON: It says termination on the	19 Freebery?
20 letter.	20 A. I didn't write the letter, so I think you'd have
21 MR. WILLOUGHBY: Okay.	21 to ask Miss Dunmon.
22 THE WITNESS: The reasons include poor	22 Q. Did you have input into this?
23 classroom management, inappropriate interaction with	23 A. No, I didn't.
24 staff, and lack of proper student lesson plans.	24 Q. Are you, other than that instance, are you aware

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1 of any other inappropriate interaction with the staff
2 for Mr. Wilcoxon?
3 **A. No, I'm not aware of any.**
4 Q. Okay. I'd like to refer back to the letter from
5 the January 22nd meeting.
6 MR. WILLOUGHBY: Which one?
7 MR. WILSON: Let me find it here. It would
8 be exhibit 5. Okay. The second paragraph reads: In
9 addition, I want to inform you that if any further
10 inappropriate comments are made the district will take
11 disciplinary action, correct?
12 THE WITNESS: Right.
13 BY MR. WILSON:
14 Q. And when I asked you earlier if he made any
15 further inappropriate comments you stated that he had
16 not?
17 **A. Not that I was aware of.**
18 Q. And I also asked you if he made no further
19 comments no disciplinary action would be taken, correct?
20 **A. Say that again.**
21 Q. I also asked you that if he did not make any
22 further inappropriate comments that no disciplinary
23 action would be taken against him?
24 **A. Well, okay. He made -- I'm sorry. Say it**

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1 think it's inappropriate.
2 MR. WILSON: To your knowledge there was no
3 further inappropriate interaction, correct?
4 MR. WILLOUGHBY: That's been asked and
5 answered but you can answer again.
6 THE WITNESS: Yes. But that was not the
7 one reason that he was fired. He was not not renewed
8 because of one thing.
9 BY MR. WILSON:
10 Q. Okay.
11 **A. It was a series of things.**
12 Q. So he was terminated for classroom management
13 which he received an effective grade in?
14 **A. Which was very weak.**
15 Q. But he still received an effective grade,
16 correct?
17 **A. On that one record, yes, but on his observation
he had issues.**
18 Q. Are you aware of any other teacher that has ever
19 been terminated on their -- when they get an effective
21 grade on their final performance appraisal?
22 **A. I don't. I don't see those. That wouldn't be
something I'd have knowledge of.**
24 Q. With regard to the lesson plans, didn't

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1 **again. I want to be clear on what you're saying.**
2 Q. Okay. I asked you earlier, I said based on this
3 letter you said to him that if he stopped what he was
4 doing --
5 **A. Uh-huh.**
6 Q. -- and made no further inappropriate comments,
7 that no further disciplinary action would be taken
8 against him?
9 **A. Based on this one thing, yes.**
10 Q. Right.
11 **A. If it was no other issues coming out, if there
were no other issues with him as a teacher, this was a
minor piece of the problem. There was a bigger -- there
was a bigger problem. He was not a good teacher and
that's why he was non-renewed. He was a non-tenured
teacher who was not pulling his weight, who was not
doing lesson plans, who was not correcting, and he had
this issue along with others.**
19 Q. But you told him there would be no further
20 discipline and then here he is he gets terminated for
21 inappropriate interaction with the staff?
22 MR. WILLOUGHBY: Again, you're looking for
23 a legal conclusion. The letter says what it says. It
24 says includes. We can argue about that later on but I

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1 Mr. Wilcoxon and Miss Freebery use the same lesson
2 plans?
3 **A. He used Mr. Rumford's lesson plans that Mr.
Rumford and Miss Freebery planned together.**
5 Q. Okay. And did she use those plans, too?
6 **A. Yes, but she had adjusted her plans.**
7 **Mr. Wilcoxon claimed that they were identical but they
were not.**
9 Q. Okay.
10 **A. I investigate that.**
11 Q. Had he made any adjustments to his plans?
12 **A. A few.**
13 Q. What adjustments had Miss Freebery made?
14 **A. Miss Freebery?**
15 Q. Yes.
16 **A. She had crossed out some videos that were not as
effective as she wanted, put in a different one that she
had found. Lots of changes through hers, crossing out
and adding. So it appeared to me, as I'm looking at
them, that when she did a lesson and didn't like
something she changed it, or before she did it she would
change it and write that in.**
23 Q. And when Mr. Rumford used Mr. Wilcoxon's plans
24 were they effective then?

Wilcoxon
Janet BasaraV.
C.A. # 05-524-SLRRed Clay Consolidated School District
May 25, 2006

<p style="text-align: right;">Page 122</p> <p>1 A. Backwards.</p> <p>2 MR. WILLOUGHBY: Wait. Okay. You said</p> <p>3 when Mr. Rumford used Mr. Wilcoxon's plans.</p> <p>4 Mr. Wilcoxon never wrote any plans.</p> <p>5 BY MR. WILSON:</p> <p>6 Q. When Mr. Rumford used his own plans? I'm sorry.</p> <p>7 A. Yes. That was two years prior and he would have</p> <p>8 adjusted his plans as he went along, too.</p> <p>9 Q. But there were adjustments to Mr. Wilcoxon's as</p> <p>10 well?</p> <p>11 A. He had added in the number of the performance of</p> <p>12 indicators. That didn't say a whole lot. Normally</p> <p>13 you'd expect that -- you could write those in as long as</p> <p>14 you know what they are and you're using them on a</p> <p>15 regular basis. So he added those in to a few lessons</p> <p>16 that I saw. I didn't see everything.</p> <p>17 Q. So if he had changed some of the videos --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- his would have been effective as well?</p> <p>20 A. No, I'm not saying that. I'm saying that his</p> <p>21 lesson plans that he handed to me were in Mr. Rumford's</p> <p>22 writing. He was given those lesson plans the first year</p> <p>23 that he came in order to be a guide for him so that he</p> <p>24 would have an idea of what the program was. As a new</p>	<p style="text-align: right;">Page 124</p> <p>1 his desk?</p> <p>2 A. Yes.</p> <p>3 Q. In April, 2004 --</p> <p>4 A. Not his desk, no.</p> <p>5 Q. Where was the money taken from?</p> <p>6 A. In the multi-purpose room.</p> <p>7 Q. Okay. Can you tell me about that?</p> <p>8 A. Yes. He said that money was taken from a</p> <p>9 fundraiser that he was collecting money for. There was</p> <p>10 cash and checks that he left that on the table in the</p> <p>11 multi-purpose room with the doors unlocked and went to</p> <p>12 lunch, and someone came in and took the money, took the</p> <p>13 cash. I believe it was \$49.</p> <p>14 Q. And how was Mr. Wilcoxon disciplined?</p> <p>15 A. I believe there was a letter. I don't remember.</p> <p>16 Was there -- I don't know if there was a letter or not,</p> <p>17 honestly.</p> <p>18 Q. In the two years, 2002-2003, 2003-2004, had any</p> <p>19 other teachers had money stolen from them?</p> <p>20 A. Yes.</p> <p>21 Q. Did they get letters as well?</p> <p>22 A. No.</p> <p>23 Q. Why not?</p> <p>24 A. Did he get a letter? He may have. I don't know</p>
<p style="text-align: right;">Page 123</p> <p>1 teacher you would expect to get some kind of help and</p> <p>2 that was a lot of help. He took those plans and used</p> <p>3 them as his own for two years and didn't change much</p> <p>4 other than a little thing here or there.</p> <p>5 Q. Is it relevant that they were in Mr. Rumford's</p> <p>6 handwriting or just that they were Mr. Rumford's plans?</p> <p>7 A. It is relevant. You would expect a teacher is</p> <p>8 going to write their own lesson plans.</p> <p>9 Q. Okay. So if he had just copied Mr. Rumford's in</p> <p>10 his own handwriting?</p> <p>11 A. That wouldn't make it any better technically.</p> <p>12 Technically he should be doing his own lesson plans. He</p> <p>13 should be spending time thinking about what lesson needs</p> <p>14 to be learned, what is the objective, and how am I going</p> <p>15 to reach that and what can I use and take a look at the</p> <p>16 lessons -- the materials that were there and decide if</p> <p>17 he wanted to use them or not.</p> <p>18 Q. So was the issue that they were ineffective</p> <p>19 plans or that he didn't do them himself?</p> <p>20 A. The issue was that he was using someone else's</p> <p>21 plans for two years and didn't take the time to improve</p> <p>22 the plans in any way really.</p> <p>23 Q. Okay. This is the last issue I am going to hit.</p> <p>24 Was Mr. Wilcoxon disciplined for a theft of money from</p>	<p style="text-align: right;">Page 125</p> <p>1 if he even got a letter on that.</p> <p>2 Q. Okay. Did they get letters?</p> <p>3 A. We made announcements that teachers need to lock</p> <p>4 any fundraisers or money that they are collecting, they</p> <p>5 need to lock it because it could be taken. Any student</p> <p>6 could walk in and take it, and in his case it was -- it</p> <p>7 was just unbelievable that you would leave cash on a</p> <p>8 table and go to lunch and leave it open where anybody</p> <p>9 could get in, and literally anybody could have gotten in</p> <p>10 there.</p> <p>11 Q. Who else had money stolen during that timeframe?</p> <p>12 A. The nurse.</p> <p>13 Q. What's her name?</p> <p>14 A. Miss Root.</p> <p>15 Q. How much money did she have stolen?</p> <p>16 A. Several hundred dollars.</p> <p>17 Q. What were the circumstances?</p> <p>18 A. It was in a locked cabinet. It was in with the</p> <p>19 medicine and it had a large bar down the front of that</p> <p>20 to keep the doors locked and a lock on it. There were</p> <p>21 three students in the area that morning and so we could</p> <p>22 narrow down the search to three students. We did send</p> <p>23 out a memo, was anybody else out of class at 8 o'clock</p> <p>24 to the whole staff, got some responses back, and we were</p>